


<b>Cabinet Decision</b>  3 November 2015	 <b>TOWER HAMLETS</b>
<b>Report of:</b> Melanie Clay, Corporate Director LPG	<b>Classification:</b> Unrestricted
Local Government Ombudsman Decisions 2014/15	

<b>Lead Member</b>	<b>Mayor Biggs</b>
<b>Originating Officer(s)</b>	Graham White, Service Head Legal Services; Ruth Dowden, Complaints and Information Manager
<b>Wards affected</b>	All wards
<b>Key Decision?</b>	No
<b>Community Plan Theme</b>	<b>One Tower Hamlets</b>

### Executive Summary

This report provides summary information regarding complaints against the Council where the Local Government Ombudsman found fault, and covers complaints concluded between 1 April 2014 to 31 March 2015

### Recommendations:

The Mayor in Cabinet is recommended to:

1. Consider and comment on the contents of the report.

### 1. REASONS FOR THE DECISIONS

- 1.1 Legislation requires the Council to consider such findings by the Ombudsman

### 2. ALTERNATIVE OPTIONS

- 2.1 N/A

### 3. DETAILS OF REPORT

- 3.1. The Commission for Local Administration in England, commonly known as the local Government Ombudsman (LGO), was established under the Local

Government Act 1974 (amended by the Local Government and Housing Act 1989) to consider complaints against local authorities and other public bodies. Their remit is broad and covers actions of the authority that fall under the corporate complaints procedure, statutory Adults Social Care complaints and statutory Children's Social Care complaints. The notable exception to their remit, since April 2011, is non-strategic housing complaints which are considered by the Housing Ombudsman.

3.2. Since 2013, arising from the Local Government and Public Involvement in Health Act 2007, the LGO has issued and published either a 'statement of reasons' or 'report' of their findings for each complaint.

3.3. In April 2014 the Ombudsman changed the terms used to classify the decision made on each complaint. The list of terms is appended (appendix 1)

3.4. Previously, complaints which were upheld in some part, but not subject to a formal 'report' were termed as a Local Settlement. Local Settlement was a very broad term, covering complaints where the authority agreed a remedy or committed to take a course of action which the LGO consider appropriate and hence discontinuing their investigation. This also included complaints already upheld and remedied within the internal complaints procedure.

3.5. The terms now include,

- determinations of maladministration with injustice,
- maladministration with no injustice, and
- no maladministration.

3.6. Complaints considered by the Council and those considered by the LGO and Housing Ombudsman are reported to Members by way of an Annual Report and a Half Year Report to Overview and Scrutiny Committee and the Standards Advisory Board,

3.7. Over and above this requirement, complaints to the Council where fault (or maladministration) is found, but no formal report against the council is issued, should also be considered by Cabinet and full Council.

3.8. A brief summary of all complaints where some level of fault was found between 1 April 2014 and 31 March 2015 is appended (Appendix B). The Ombudsman's full 'statement of reasons' for each of these complaints can be found on their website, <http://www.lgo.org.uk/>

3.9. Of the four complaints where compensation was paid, this totalled £1718.53, with individual payments ranging from £190 to £1028.53

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

4.1 There are no direct financial implications arising for the recommendations in the report. Regular review and reporting on complaints allows for trends to be addressed and risk to be mitigated.

## **5. LEGAL COMMENTS**

- 5.1 The statutory basis of the ombudsman service is noted at paragraph 3 of the report, above. In addition by virtue of section 92 of the Local Government Act 2000 the Council is empowered to make a payment to or provide some other benefit to a person who has been adversely affected by actions which may amount to maladministration.
- 5.2 There are no immediate legal implications arising from this report.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 All complaints are considered on their merits and any issues or perception of equality issues are dealt with in the evaluation of the complaint. The procedure is publicised and a wide range of access methods are available to assist the community.

## **7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 Complaints and complaints data can lead to service improvements and early resolution minimise time spent redressing issues.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 There are no implications.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 Regular review and reporting on complaints allows for trends to be addressed and risk to be mitigated.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 There are no direct implications

## **11. SAFEGUARDING IMPLICATIONS**

- 11.1 There are no implications.

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### **Linked Reports, Appendices and Background Documents**

**Appendix A, Table of Ombudsman Decision Classifications**

**Appendix B, Table of Cases Determined in 2014/15**

## Appendix A

Decision Reasons from 1 April 2013	What changed in February 2014	Decision Reasons from 1 April 2014
Not in jurisdiction (OJ) and no discretion	No Change	Closed after initial enquiries – out of jurisdiction
Not in jurisdiction (OJ) and discretion not exercised		
Not investigated		Closed after initial enquiries – no further action
To discontinue investigation		Not upheld: No further action
Investigation complete and satisfied with authority actions or proposed actions and not appropriate to issue report S30(1B)  'Local Settlement'	Investigation complete: Maladministration and Injustice	Upheld: Maladministration and Injustice
	Investigation complete: Maladministration, No Injustice	Upheld: Maladministration, No Injustice
	Investigation complete: No Maladministration	Not upheld: No Maladministration
Investigation complete and appropriate to issue a report S30(1)	Investigation complete and report issued: Maladministration and Injustice	Report issued: Upheld; maladministration and injustice
	Investigation complete and report issued: Maladministration, No Injustice	Report issued: Upheld; maladministration, no injustice
	Investigation complete and report issued: No Maladministration	Report issued: Not upheld; no maladministration

Appendix B  
Upheld complaints

Reference	Complaint & Council Remedy / Action
13 12 775	<p><b>Complaint</b> The Council failed to respond fully to Ms G regarding the planning status of a compound. She continued to complain regarding the impact on her of double stacked containers but the Council did not reply, register a formal complaint or investigate whether the compound met permitted development rules. When the Council later asked the contractor to reduce the two storey stacked containers, no checks were made and the two storey containers remained on the site.</p> <p>The Council was at fault because it did not properly consider how the compound met Permitted Development rules and how the height affected residents.</p> <p><b>Action</b> Planning procedures have been reviewed and updated to ensure that officers record when they give instructions and details of the person they spoke to.</p> <p>The Council apologised to Ms G and paid her £250 for the distress and inconvenience caused and her time and trouble.</p>
13 012 350	<p><b>Complaint</b> Prior to accommodating Ms H, the Council had told the guest house not to use the room they subsequently placed Ms H in. Ms H complained about the room but the Council did not act for several days to have Ms H moved.</p> <p>The Council also accepted it sent the wrong figure regarding rent restrictions in March 2012 and it did not refer Ms H to the welfare reform team or housing benefits for assistance. In addition there was significant delay by the Council's welfare reform adviser in responding to Ms H's queries.</p> <p><b>Action</b> The Council accepts it was at fault in not responding immediately to complaint about the guesthouse room. The complaint was missed when reported to the service prior to a weekend and only when a letter came in the following week it was actioned. Staff were reminded to escalate any such complaint about accommodation immediately. The Council stopped using this guest house shortly after this complaint was submitted. The Council apologised to Ms H and wrote off £13 in service charges for the period she lived in the first room. The Ombudsman felt that further remedy should be offered and the Council agreed to write off £77 rent arrears and pay Ms H £100. This was a complicated case because of the involvement of three different teams – 2 within Housing Options (HOST and Housing Management)</p>

	<p>and the Housing Benefit Department. The Housing Management Team took the decision to write off the service charges for the period she was in the hotel, and as soon as her complaint was brought to their attention she was moved; the original complaint having been made to the HOST team which was not passed on to Housing Management. There is now greater management oversight of B&amp;B placements.</p> <p>The Ombudsman felt that further remedy should be offered and the Council agreed to write off £77 rent arrears and pay Ms H £100.</p>
14 006 109	<p><b>Complaint</b> Mrs X moved to a care home in Kent in November 2013. The Council funded the placement and her family agreed to pay a top up of £50 a week, as the fees are higher than the relevant standard rate.</p> <p>The family complained about a lack of support which they say resulted in them having to pay the top-up. Although the Council accepted it had not communicated with them as well as it should have done about the placement, it would not waive the top-up.</p> <p><b>Action</b> After further consideration, the Council wrote to the family, agreeing to meet the cost of the top-up from the date Mrs X moved. The agreement stands until a place becomes available at the care home which does not attract a top-up. The Council reviewed its top-up policy to ensure compliance with Section 11 of the Department of Health's Charging for Residential Accommodation Guide.</p>
14 001 837	<p><b>Complaint</b> Concerning support and communication with an Adult Social Care service user during an investigation. This decision is not published given the sensitive nature of the complaint.</p> <p><b>Action</b> The Council has offered an apology and improved procedures. This is to ensure that if a user is prevented access to their normal service, regular communication is maintained while access is denied.</p>
14 008 401	<p><b>Complaint</b> Mrs X has health conditions which cause her to have some mobility problems. She speaks limited English. Mrs X temporarily attended a day centre where she made some friends who speak her first language, and she applied for a permanent placement. The Council's reablement service found she did not have eligible needs. The Council arranged for an officer who speaks Mrs X's first language as a second language, to attend the assessment. However, Mrs X says she could not discuss her health properly or the impact on her life.</p> <p><b>Action</b></p>

	<p>There was fault in the way the Council carried out the initial assessment of Mrs X's needs as, although the worker attended in good faith, it is accepted that for a more detailed discussion of health needs a professional interpreter was required. Arrangements have been made to engage professional interpreters for assessments.</p> <p>The independent assessment of her needs with a professional interpreter was agreed to remedy any injustice.</p>
13014880	<p>Complaint</p> <p>Mr G said the Council failed to maintain an ornamental canal next to his home. He complained a lack of cleaning lead to a build-up of debris in the canal causing an odour problem and algae growth. Mr G also wanted the Council to reinstate a decommissioned pump near his property</p> <p>The delay from December 2012 to February 2013 by the Council failing to take effective action to resolve the pump breakdown was considered to be too long.</p> <p>Action</p> <p>The Ombudsman did not see the fault caused a significant injustice because, following the initial delay of two months, the Council did then take steps to have the pump investigated and repaired. Additional debris accumulated by the lack of water flow was cleared during the annual deep clean of the canal.</p> <p>The service notes the initial delay.</p>
14 012 035	<p>Complaint</p> <p>Mr A was banned from a supported hostel pending trial for an incident with another resident and the Council refused to provide him with alternative housing.</p> <p>A charity suggested to the housing options team that Mr A wanted to pursue a formal homeless application. The Council did not complete the statutory assessment of homelessness or inform him in writing of the decision, although a medical opinion was obtained.</p> <p>Mr A was refused help from the rent deposit scheme due to concerns over his capacity to live independently.</p> <p>Action</p> <p>The Council was at fault because it did not complete a formal assessment of homelessness for Mr A and tell him in writing of the decision. This meant Mr A was denied review and appeal rights. However, the outcome would not have been any different if the Council had dealt with his case properly.</p> <p>The Council apologised to Mr A for any inconvenience caused and agreed to develop guidelines for officers concerning applications for assistance with private renting, particularly where there is a concern regarding the person's capacity for living independently.</p>
14 004 191	<p>Complaint</p> <p>In 2012 developers applied for a temporary Traffic Regulation Order (TRO) lasting 12 months. They asked for closure of a street near Mrs S's business to allow building work. The Council implemented the</p>

	<p>TRO. Mrs S raised issues concerning the TRO. The Council had limited records of its communication with Mrs S, aside from a few emails and accepted it failed to tell Mrs S about the procedures for TRO's on expiry of the original TRO including how to object and the Council's role. The Council did not carry out a full consultation for the TRO, only realising the error through Mrs S's communication. The Council did then follow the correct process and took account of Mrs S's objections.</p> <p>Action In order to remedy the faults and injustice identified in this case the Council agreed to:</p> <ol style="list-style-type: none"> <li>1. Pay Mrs S £250 for the time and trouble she experienced;</li> <li>2. Send her a letter of apology; and to</li> <li>3. Confirm to the Ombudsman and Mrs S what measures have/ will be put in place to avoid the mistakes identified in this case happening again.</li> </ol> <p>The Council joined the London Permit Scheme for Streetworks in January 2014 and now requires all developers and utility companies seeking to work on or impact on the public highway to apply for a permit for such works. Such engagement at a London-wide level will ensure best practice can be applied to the road closure process in the borough. Internal processes have also been updated to ensure better communication with those impacted by such proposals.</p>
13 015 399	<p>Complaint The Council's served a Notice to Owner on Mr Y at Mrs X's address for two Penalty Charge Notices but received no reply. The Council then sent Charge Certificates. Mrs Y returned a charge certificate saying Mr Y was out of the country until October 2013. The Council issued an order for recovery in September 2013 for both PCN's. The Council then passed collection of the unpaid charges to bailiffs. Mrs X paid the charge for one PCN. Mr Y wrote to the Council in January 2014 saying he had been abroad when the charge certificate had been sent and Mrs X had told the Council. Mr X said he had been unsuccessful in setting up a payment arrangement with the bailiffs. Mr Y disputed the bailiff fees and made an out of time witness statement to Northampton County Court in March 2014 because the charges had already been paid before referral to bailiffs. The Council opposed the witness statement. In April 2014 the Court accepted Mr Y's witness statement and revoked the court order for the recovery of the unpaid fees..</p> <p>Action The Council decided to take further action to recover the PCN. Mr Y appealed and both cases had gone to the Independent Parking Adjudication Service.</p>



	<p>In response to the Ombudsman enquiries about the complaint the Council agreed as a goodwill gesture not to refer the cases to the independent parking adjudicator. Instead it refunded the PCN charges and bailiff fees to Mr Y.</p>
<p>14 000 395</p>	<p><b>Complaint</b>  On 13 January Ms C complained that the B&amp;B accommodation was unsuitable and asked for £3,182.75 redress (including a refund of the entire rent and service charges). She also asked the Council to refund an exam fee saying her husband failed the exam due to the housing situation. The Council addressed the points raised and asked for more information on the compensation claim. The Council offered £1028.53 for the rent and service charges paid (after Housing Benefit deductions) for the period from 5 to 27 November 2013 but did not offer redress after that time because they had the option to move to another B&amp;B. In addition the Council also acknowledged the family was in a B&amp;B for 26 days longer than it should. It offered to pay back the rent and service charges (again after benefit deductions) for that time. As the family were in arrears it proposed to use the money to clear most of their debt.</p> <p><b>Action</b>  Ms C and her family had to stay in B&amp;B accommodation for 26 days longer than the law permits; the council acknowledged throughout its handling of the complaint. The delay occurred because of a severe shortfall in suitable properties. Ms C's compensation claim to the Council and to the Ombudsman centres on the unsuitability of the accommodation. The Ombudsman thought the offer by the Council was reasonable and adequately covers the 26 day delay and any time and trouble caused to Ms C and her partner</p>