

Local Government &  
Social Care  
**OMBUDSMAN**



**Under Pressure**  
**– *the impact of***  
***the changing***  
***environment on***  
***local government***  
***complaints***

December 2018



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# Ombudsman's foreword

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Over the last decade local government has gone through the most intense period of change in a generation.

Significant budget reductions, changing demand on services, and technological advances have required councils to adapt how they provide services. Councils are not only completely restructuring how services are delivered, most have had to ask themselves tough questions to strike the balance between the things they would like to do, and those they must.

The Local Government and Social Care Ombudsman has been here throughout, investigating complaints and putting things right where individuals have suffered as a result of mistakes. At the heart of this report is a series of real world case examples highlighting where we have seen things go wrong.

While change is necessary, and can be a catalyst for making improvements, in the cases we investigate we have seen instances where the way major change has been managed has been at the centre of the injustice found.

It is important to note that we look at the current climate through the lens of complaints and

the experiences of people who have been let down. Most people receive good services from their council, despite the significant pressures authorities are under. We also recognise the level of financial constraint placed upon councils. For example, the National Audit Office (NAO) in a [recent report](#) concluded that funding for local government has been reduced substantially while pressures on councils have been exacerbated by growing demand for services.

This report is the culmination of research into our casework to identify the common themes where change can contribute towards service failure. It presents four key areas that councils can particularly look out for when carrying out change work. Each area incorporates a number of learning points, demonstrated by case studies from our complaints.

They are:

- > Accommodating longer backlogs
- > Reviewing eligibility criteria
- > Using new partnerships and delivery arrangements
- > Restructuring and redesigning services

This report doesn't claim to have all the answers to the problems. In the context of the vast range of services local authorities provide, we know that a relatively small number of complaints are brought to us. Nevertheless, we hope this report can help authorities. Firstly, by being a useful aide memoire when planning any major change projects. In particular, we hope this is helpful to chief executives and monitoring officers in ensuring sound corporate governance is maintained during periods of transformation.

Secondly, it helps councils harness the learning from our investigations to improve services for local people. There are suggested questions

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to pose, especially to help leaders and elected members provide the challenge to make sure successful change happens, without adverse impacts and unforeseen negative consequences.

This report also confirms our approach to taking account of change and resource pressures when investigating individual complaints. While we understand the challenges councils are experiencing, and realise that change and restructure can explain some service failures, it cannot excuse them. We cannot make concessions for failures attributed to budget pressures; we must continue to judge authorities in line with relevant legislation, standards, guidance and their own policies.

Given that providing local services increasingly comes from complex partnership models, it is also unsurprising we are increasingly using our powers to hold councils accountable for the actions of contractors, and other private, public and voluntary organisations, providing services on their behalf. It is clear from our investigations that the need for councils to maintain clear oversight and establish strong governance arrangements over external partners has never been greater.

This report also helps to set out our approach to looking at change and improvement when making our recommendations to put things right. We are increasingly having to probe whether service failures in individual cases point to policies and practices that could be improved. If we find others have, or could have been affected, we will recommend reviews of cases and policy. Only by doing this can we maximise the learning opportunities from our investigations for the benefit of all authorities.

Alongside this report we are also launching our revised Principles of Good Administrative Practice. We have done this in consultation with the sector, and this provides the framework

against which we will continue to hold bodies in our jurisdiction to account.

Ultimately, the message is clear – don't throw out the rule book when working under pressure. The basic principles of good administration are more important than ever when undergoing momentous change and breaking new ground. As respected former chief executive Max Caller CBE said, in a recent best value report: *"In local government there is no substitute for doing boring really well. Only when you have a solid foundation can you innovate."*



**Michael King**

**Local Government and  
Social Care Ombudsman**

**December 2018**

#### **Note on the case studies**

Throughout this report we reference case studies from our investigations. Click the links to read the full decisions (where available) on our website. At the end of the report there is also a complete index of the nearly 40 cases we've used.

We publish all our decisions, except in a small proportion of cases where to do so may risk anonymity of those involved. Our published cases are searchable at [www.lgo.org.uk/decisions](http://www.lgo.org.uk/decisions).

# Accommodating longer backlogs

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Faced with budget pressures, all councils have looked hard at the level of service they have to, rather than want to, deliver. They have also considered what the law and guidance say about essential service standards and how quickly they must respond.

An overriding theme in many of our investigations is delay, caused by a backlog of requests for service. The backlogs then impact on the workload of staff and their ability to respond in what is felt to be reasonable timescales.

## The Ombudsman's approach

When investigating a case, the presence of delay does not necessarily mean we find a council at fault. We consider whether timescales have a statutory basis, and look at what steps the council has taken to explain what is happening and to anticipate and respond to increasing pressures. We also focus on what impact the delay has had on the complainant and whether it has caused injustice.

Typical issues and recommendations to improve services

Our investigations have found faults that councils say were caused by staff shortages in critical areas, often over a prolonged period causing serious backlogs in work. Examples include:

- > Occupational Therapists unable to assess a person's home
- > Delays of months in processing homelessness applications
- > Delays processing housing benefit claims.

To address these issues, the actions councils agree to implement are often around improving workload management, using short term staff to tackle backlogs and carrying out wider reviews of the service area concerned.

### Case Study [\(16005108\)](#):

We found the council at fault for taking too long to carry out a financial assessment of a grandparent to look after their grandson. The council took four years and then refused to backdate the allowance it calculated. The council blamed limited resources for its failures. We said this did not affect our recommendations or excuse the delay.

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**Case study ([16002971](#)):**

We found the council failed to decide a homeless application for fifteen months. The council said it did not have enough staff to issue written decisions to everyone asking for help and cuts had made the team unable to cope with the workload. The council has carried out a review of its housing options service and increased capacity for advice and issuing formal decisions.

**Case study ([16016533](#)):**

A woman applied to the council for housing benefit and council tax reduction. When the council refused both, she appealed. The council refused her housing benefit appeal but then, as the law requires it to do, did not refer her case to the Tribunal. It said it was prioritising older cases. We found the council had a backlog of over 500 cases caused by a lack of resources.

**Learning from complaints**

Council scrutiny functions should use our decisions and agreed actions to hold the executive to account. Where the council has made a commitment to restructure, change work practices or provide short term capacity fixes, scrutiny committees could review the situation after six or twelve months to see whether change has achieved the desired outcomes.

# Reviewing eligibility and charging policies

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Councils have put policies under careful scrutiny to consider what they have to provide, versus what they have discretion about.

## The Ombudsman's approach

We continue to focus on what legislation says must and should happen. We will also consider how councils have justified any departure from what statutory guidance says should happen.

Often it is not a binary question for councils to simply choose to provide a service or not. In many cases councils must exercise discretion to consider individual circumstances. We will be critical where councils adopt blanket policies that fail to anticipate wider consequences.

Typical issues and recommendations to improve services

### 1. Ensure the new service standard is lawful

Councils must ensure changes to policies, thresholds and assessment criteria are lawful. Redesign programmes need to consider how to carefully involve sources of advice on governance and the law, at a stage where they can influence what happens.

#### Case study ([16O18163](#)):

We found the council at fault for offering an 'enablement service' for people leaving hospital to live in care homes, helping them adapt to living more independently. The council thought it could avoid the cost associated with free entitlement to intermediate care and reablement for six weeks, by using a subtly different approach and name. We found it was not fully complying with the Care Act. The council has reviewed its approach because of our investigation.

#### Case study ([17O18747](#)):

The council decided that to manage demand, it would only investigate reports of statutory noise nuisance once it received complaints from three different people about the same issue. A woman complained about loud noise affecting her property but, because of where she lived, it was very unlikely the noise would affect others, so the council had dismissed her complaints. Our investigation found more than 6,000 other complaints had been dismissed too. The council agreed to change its policy and publicise this so other people who lost out could hear about it.



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## 2. Ensure decisions about service provision are based on assessed needs

We have found councils at fault for raising eligibility thresholds to qualify for services, particularly in adult social care, as a means to save money. Instead of starting by assessing needs, developing a care plan and then meeting eligible needs, councils have made resource-led decisions, sometimes missing out the care plan stage altogether.

We have also found examples where councils have imposed targets or informal policies to restrict services. For example, in case ([15008823](#)) there was no formal policy but instead a direction to social work teams to only give a maximum of four weeks respite care.

Frontline staff are sometimes at risk of having professional judgement overshadowed by the pressure to meet financially driven targets. We have found examples where councils have missed out the needs assessment stage altogether, or where assessments have been used to justify funding-driven changes in care. In one case ([14015230](#)), a council introduced a new policy for direct payments. It decided it would not provide payments to support carers who were also going out to work. The council did not properly consider the individual circumstances of the case or the impact of a reduced budget on the family. It assumed the carer would take time off work, but she could not do so.

### Case study ([15006450](#)):

We found a council had imposed a target for reducing the number of planning control site visits. While there is nothing inherently wrong about such a target we found it risked improperly influencing professional judgement. Instead of deciding on a case by case basis whether a visit was necessary, officers may have been influenced by how many had taken place already.

### Case study ([16000780](#)):

We found a council had reduced care by half for a young person with significant needs without explaining the basis for the decision. Frontline staff believed the council had adopted a blanket policy of a maximum number of days of respite support per year. We said this raised significant questions about the way the Council makes decisions about the level of care it will provide. This should be based on assessed needs and imposing a blanket maximum level would be inappropriate.

### Case study ([16017084](#)):

We found the council had made significant cuts to a package of care for an elderly person without carrying out a needs assessment. Comments from a key decision maker suggested the council had started from the perspective of needing to make substantial cuts, rather than meeting the person's needs. We said this may indicate an inappropriate attempt to ration resources.

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**Case study (16015946):**

We found a council had introduced banding for certain types of disability to save money in its adult social care budgets. Once it decided the person's disability fell into a particular band, it meant the person's funding could not exceed a certain level. We found this approach did not follow what the Care Act requires. Councils can use bandings as a guide, but the assessment tool this council used was designed to ration resources.

To address these issues, the actions councils agree to implement often include improving the support to staff, for example in one case through a staff forum to help them meet Care Act statutory duties.

Councils also agreed to review policies. Just as crucially, they review the application of these policies to ensure decisions flow from correctly made assessments.

**Learning from complaints**

Scrutiny committees should review complaints information in the wake of councils reviewing and changing eligibility policies. This will allow them to assess whether the revised policies, and their application, are making permanent improvements.

Councils should give the necessary support, and foster the right culture, to allow frontline staff to appropriately challenge management decisions and hold the line on what their assessment of the situation needs.

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### 3. Properly consult on, and communicate, intended changes

Councils should normally consult with relevant service users and stakeholders before making major changes to services. They should also give service users fair warning of changes, and avoid them experiencing an unexpected drop in resource or support.

Our investigations have found examples where this hasn't happened and the first a service user has known about a change has been a dramatically reduced service.

#### Case study ([14010195](#)):

The council had changed its policy on supporting short respite breaks, raising thresholds because of budget cuts. It had not set out the new criteria; it just said it would provide services for children with an unspecified high level of need. We decided the lack of a published criteria meant families could not work out what services they were entitled to. The council agreed to publish clear criteria having carried out more consultation with parents and carers.

#### Case study ([15003872](#)):

The council changed its home to school transport policy and consulted on it. However, it did not explain the implications of the policy change in a clear and obvious way. It did not explain how it would measure home to school distances so parents could not engage effectively in the consultation. We received a number of complaints on this same issue.

To address these issues, councils typically agree to give more notice to service users when making significant changes to charging arrangements.

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#### 4. Ensure frontline staff are suitably informed to advise service users effectively

Major changes in policies, thresholds and charging can be poorly communicated to frontline staff. We have found cases in fostering and adult social care where crucial changes to services, with significant financial implications for service users, have been made without involving frontline staff – leaving staff unable to guide people towards decisions in their best interests.

Our investigations have found these failures to communicate involving managers as well as frontline staff.

To address these issues, councils typically agree to improve handbooks, guidance notices and provide regular training for frontline staff.

##### Case study ([16006379](#)):

The council changed its policy for foster parents, expecting them to meet all costs of care, including transporting foster children to school, from their fostering allowance. Managers and social workers involved were not properly made aware of the change for far too long. We found the council had failed to correctly interpret the law and guidance and failed to implement the policy clearly or fairly.

##### Learning from complaints

Councils should make use of their own complaint information to identify service areas where frontline staff are insufficiently briefed or trained. This can head off issues that may escalate to us.

#### 5. Properly explain and justify decisions

We have found examples where councils have lawfully changed policies for support but not properly explained how they came to their decisions, for example for post 16 transport for young people with special educational needs.

Record keeping and clear, evidence-based decision making is always important but particularly critical when councils implement new policies. Complainants can then compare their experience with that of others benefiting from previous arrangements, and rightly demand to know why they have been treated differently.

##### Case study ([16002530](#)):

A council changed its policy for respite care as part of budget savings. The new policy set a maximum of two weeks respite care per year with anything more needing to be exceptional. We found the council did not explain why it had reduced care for an adult with serious care and support needs. This was the third complaint where this council had not explained decisions to reduce support. The council agreed to reassess needs and give a clear explanation of how identified support would meet eligible care needs.

# Delivering services through new organisations, partnerships and commercial arrangements

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Councils increasingly deliver services through new organisations, partnerships and commercial arrangements with contractors. Some councils have undergone major change programmes, transferring all back office functions or entire service areas to other organisational structures. The common example is waste and recycling services where most councils use private contractors. But almost no service area is out of scope for this type of change. Recent complaints have involved external delivery of services as diverse as school admissions, planning control and enforcement.

Almost all councils will now have some service areas provided externally with varying contract management arrangements to hold these to account. Some make this arrangement visible and clear: “council x working with organisation y to deliver service z”. Others have created largely separate brands or organisational structures, sometimes with less visible lines of accountability back to the council and a lack of public recognition about who is responsible.

## The Ombudsman’s approach

We hold councils to account for the actions of organisations working on their behalf – councils are entitled to outsource the service, but they cannot outsource the responsibility. Where appropriate, in our investigations we also name contractors and organisations providing services on behalf of councils – particularly if we believe recommendations to consider contracting arrangements can improve the service and prevent further injustices.

Typical issues and recommendations to improve services

### 1. Properly manage contractors

Councils have varying levels of experience and capacity to manage external contracts. Many are highly skilled with strong teams providing expertise. Others, recognising their relative lack of experience have gone into partnership with other councils. However, expertise in commercial procurement and contract management needs to be accompanied by an understanding of the values and duties expected of a public authority. The standards and statutory frameworks governing local authorities apply equally when operating in a commercial environment or when delivering services through other arrangements.

We have found examples where councils have failed to invest in sufficient experience or where that expertise was not rooted in the principles of good public administration.

#### Case study [\(16O13981\)](#):

The council used a private company as its agent to manage a loan scheme to renovate empty properties to a decent standard. The company was wound up and an audit report found the council had overlooked or overridden management controls, procedures and other requirements when it set up the company. It had not properly understood the scheme or company. Our complainant had been left out of pocket because she did not get the money back she expected, having carried out improvements. Because of the audit and our investigation, the council made significant improvements in how it manages this type of relationship.

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## 2. Ensure the local market is sufficiently developed to provide necessary services

As well as large scale contracts with private sector organisations, many councils have used procurement to stimulate local provider markets, for example in adult social care. This has the benefit of helping the local economy, encouraging growth in small business and supporting provision that is grounded in and understands local demand. However, we have found examples of fault in this kind of approach, particularly where one council had unrealistic expectations of that market.

### Case study ([16007469](#)):

A man was separated from his wife for 10 months because there was no home care available in his area. The man's wife, who has mobility problems, should have returned home with the help of a care package following a hip operation. But to get the support needed, she was placed in a residential home, some 15 miles away because the council's contracted providers did not have the capacity to care for her.

The council had agreed contracts with a smaller number of preferred care providers, each solely responsible for delivering all homecare services in their zone, in an effort to improve stability in the local market. The newly contracted provider in the woman's area did not have enough capacity to provide care to meet her needs.

We found the council at fault for allowing the woman to be placed in the dementia unit and not revising her care and support plan when her circumstances changed. Throughout our investigation we found other people may have been similarly affected by the council's contracting arrangements. We urged other councils to look carefully at our findings if they are reviewing commissioning models.

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### 3. Get the administrative basics right with new delivery arrangements

We have been working with councils coming together to form combined authorities to help them put in place appropriate complaint procedures. We have found examples where councils have set up new structures without the right processes in place. In some cases, the procedures are there but new staff are not aware of how to use them.

Many councils have gone into joint working partnerships with other councils to share back office arrangements and generate efficiencies.

#### **Case study ([15016155](#)):**

Two councils set up a new company to provide back office administrative functions including support for home to school transport. The company initially worked without an appeal process in place, contrary to the statutory guidance recommendations. We found confusion among staff in the company and council about how to appeal. The council agreed to put clear information on its website, and that of the company, and to raise staff awareness.

#### **Case study ([16003062](#)):**

A council had outsourced some services, including housing. It was unclear how the council's complaint team would liaise effectively with those newly outsourced areas of responsibility. The person that complained to us had faced a prolonged period without accommodation, sofa surfing and sleeping rough, then in unsuitable temporary accommodation for nearly a year. He had to complain to us because the council had not dealt properly with his complaint about this. The council agreed to review and improve complaint handling, including about outsourced services.

# Restructuring and redesigning services

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Councils, like all large organisations, undergo frequent restructures. Pressures have increased the scale and pace of change with restructuring designed to reduce waste, overheads and improve ability to focus on service delivery.

## The Ombudsman's approach

Restructuring and service redesign is no excuse for fault. Effective management of change should mean the risks to business continuity are properly assessed and mitigated.

### Typical issues and recommendations to improve services

Councils sometimes cite restructuring as an explanation for poor service. They say reorganisation intended to improve services or deliver the same with less results in a period of poorer service. Frequent staff changes, loss of corporate memory and lack of continuity of contact with vulnerable service users are significant issues. This can involve changed technology and changes to processes as well as staffing.

Examples include a complaint ([16007253](#)) where the council blamed restructuring for a lack in continuity of care because officers with experience of an individual's case left, causing delay and inconsistent advice. Another ([15004018](#)), where the council was significantly overdue assessing an elderly lady's needs when she returned home from nursing care. It said restructuring caused heavy officer workloads resulting in what it described as totally unacceptable delays in reassessment.

#### Case study ([16008982](#)):

In an extreme case, a council couldn't explain a decision about implementation of a new parking zone. It could not say why it had made the decision or how it was made. It said this was because of funding cuts, staff turnover and restructures. It said all the people involved had left the council and major, yearly restructures for the past few years meant entire teams and departments had changed or been deleted.

#### Learning from complaints

Alongside conventional restructuring, increasing numbers of councils are redesigning services using business tools. Often these focus on the experience of service users as a driver for shaping resources and processes around meeting their needs.

This is an excellent opportunity to use insight from complaints as a tool for improvement. Handling complaints is a quantifiable and significantly reduceable cost for council services. Insight from complaints can also point to waste. One example might be where an assessment process takes up an unjustifiable level of resource or leads to so much delay that the long term consequences (for example of delay getting aids and adaptations to the home) outweigh savings.



# Checklist of things to avoid

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## **Taking longer to act and accepting longer backlogs**

- > Properly plan for the impact on service provision of increased staff workloads
- > Understand essential service standards and statutory duties
- > Explain what is happening to people receiving, and in need of, services

## **Reviewing eligibility and charging policies**

- > Ensure the new service standard is lawful
- > Ensure decisions about service provision are based on assessed needs
- > Properly consult on, and communicate, intended changes
- > Ensure frontline staff are suitably informed to advise service users effectively
- > Properly explain and justify decisions

## **Delivering services through new organisations, partnerships and commercial arrangements**

- > Properly manage contractors
- > Ensure the local market is sufficiently developed to provide necessary services
- > Get the administrative basics right with new delivery arrangements

## **Restructuring and redesigning services**

- > Properly plan for the impact of frequent staff changes
- > Have strategies to avoid a loss of corporate memory
- > Ensure continuity with vulnerable service users
- > Carefully consider the impact of technological changes

# Questions for councillors and scrutiny committees

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Locally elected councillors have the democratic mandate to scrutinise the way councils carry out their functions and hold them to account.

We have identified some questions and approaches that elected members – and in particular leaders and scrutiny committees – can pose to challenge whether change work will have adverse impacts and unforeseen negative consequences.

- > How is the council planning for the impact on service users of change programmes?
- > How is the council ensuring that changes to eligibility criteria are lawful, based on need, and properly communicated?
- > How is the council properly managing any organisations acting on its behalf and embedding clear lines of accountability for dealing with complaints and concerns?
- > How is the council ensuring service redesigns avoid a loss of corporate memory and retain continuity for vulnerable service users?
- > How is the council using its own complaint information to anticipate problem areas for service users or training needs of its own staff?
- > How is the council demonstrating it learns from Ombudsman investigations?

Scrutiny Committees could:

- > review complaints information in the wake of councils reviewing and changing eligibility policies. Assess whether the revised policies, and their application, are making permanent improvements
- > review the situation after six or twelve months to see whether any change programmes are achieving the desired outcomes without adverse impacts to service users

# Appendix: The case studies

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This is an index of the cases we used to compile our findings in this report.

Click the hyperlinks to read the full decisions.

Browse and search for all our published decisions at [www.lgo.org.uk/decisions](http://www.lgo.org.uk/decisions)

## Accommodating longer backlogs

[\(17000317\)](#) The council seriously delayed taking action to get Mr D a new chair he needed as his mobility deteriorated. Mr D had Parkinson's disease, lived at home with his wife and had an adapted home. An NHS occupational therapist found that Mr D was having problems with his chair and referred the matter to the council in February 2016. The council did not contact a contractor until August, six months later. Mr D died in October before the council could install the chair. We found that the council was having serious problems filling occupational therapist vacancies. The council improved management of workloads and stepped up efforts to fill therapist vacancies.

[\(16005834\)](#) Ms A came to the council area to flee domestic violence from her husband. She made a homeless application in June 2015 and the council placed her and her younger child in interim bed and breakfast accommodation. It took the council just under a year to decide her application. The statutory code expects councils to make this type of decision in 33 days. Having decided to accept a homeless duty for Ms A, the council took no further action for another six months apart from giving some advice. This meant Ms A stayed in bed and breakfast accommodation with her young, autistic child for over 20 months. Ms A kept telling the council the bed and breakfast was unsuitable for her child. It did nothing to check whether it was suitable. The council said the delay was caused by extreme staff shortages. During our investigation, the council arranged suitable alternative accommodation. It also agreed to our recommendation to make a significant payment to Ms A.

[\(16016533\)](#) Mrs X applied to the council for Housing Benefit and council tax reduction in August 2016. The council refused her application and Mrs X appealed against the decision in September 2016. The council refused her appeal and Mrs X asked for an appeal to the Tribunal in December 2016. Mrs X then complained to us because the council had not passed her appeal on to the Tribunal by February 2017. Our investigation found the council had a backlog of over 500 appeals waiting to be passed on to the Tribunal, the oldest being two years old. Rules say councils should pass on requests to the Tribunal as soon as possible and we say this should be within four weeks. The council agreed to report to us quarterly about action to review the backlog and make progress on outstanding appeals. It aimed to fully deal with the backlog and then review procedures to ensure it processes all appeals within two months, in line with council tax appeal guidance.

[\(16005108\)](#) The council failed to carry out a financial assessment of Ms B to decide if she qualified for help to look after her grandson under a residence order. Despite Ms B asking for help many times over four years, saying she was struggling financially to look after her grandchild, it did not respond other than by making a one-off payment. It took the council four years to carry out a financial assessment. Once it did this, it decided Ms X qualified for a significant weekly allowance. It refused to backdate it for the four years she had been asking for help. The council blamed limited

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resources for not being able to properly make up for its failures over the four year period. While we were sympathetic to these problems, we would not adjust our recommendations based on a wider assessment of the financial pressures on the council. The council agreed to pay Ms B what she was owed from 2011 until 2015 to make up the loss. It also agreed to ensure it carried out future financial assessments promptly. We also noted the council's practice had improved considerably.

**(17001994)** The council took over five months to decide Miss X's homelessness application. Guidance says councils should make these decisions within 33 days of accepting an application. The council said the delay was due to high caseloads and staff absences. It paid a financial remedy to Miss X and reviewed the suitability of her interim accommodation.

**(16002971)** Ms A was made homeless after her landlord evicted her. She approached the council for help five times over fifteen months. The council failed to meet its duty to decide on her homelessness application each time. It made provisional decisions but did not write to Ms A, so she could not ask for a review or appeal to the court. The council also wrongly said Ms A couldn't get emergency B&B accommodation without a written decision from it. The council said it did not have enough staff to issue formal decisions to everyone asking for help and cuts had made the team unable to cope with the workload. The council has carried out a review of its housing options service and is increasing capacity for advice and issuing formal decisions.

## **Reviewing eligibility and charging policies**

**(16015420)** The council failed to properly assess the care needs of Mr E and his sister/carer Miss D. The Care Act means the council has a duty to assess Mr E and Miss D's eligible needs and provide care plans. The council did not provide indicative personal budgets as the Care Act guidance suggests. Its decisions to cut Mr E's services stretch back over several years. Many of these decisions were motivated by a desire to save money which we found outweighed the council's duty to meet eligible needs. Its failure to create care plans led to a reduction in services meaning neither Mr E nor Miss D's needs were met. For example, Mr E did not attend courses at college because of his behavioural problems, and alternatives such as internet based tutors were cut. After our investigation the council reassessed needs, paid a financial remedy and reviewed its procedures to provide indicative personal budgets. It has also created a new forum to help support staff meet statutory duties and focus on eligible need so support plans correctly promote independence, wellbeing, choice and control.

**(16006379)** In 2014 the council changed its policy for foster parents, expecting them to meet all costs of care, including transporting foster children to school, from their fostering allowance. This meant Mr and Mrs X had to pay to take their foster child Y to school despite being eligible for free home to school transport. The council's foster care finance handbook was unclear and unhelpful about school transport. Managers and social workers involved were not properly aware of the change until late 2015 and even in 2016 council officers were still unclear about how the policy worked. We found this change in policy was flawed. It failed to interpret the law correctly and left the policy unclear and unfair for some people. Mr and Mrs X unnecessarily had to pay for over 3,000 miles of travel, taking Y to and from school. The council reimbursed Mr and Mrs X. Because the fault may have affected many other foster carers the council reviewed its handbook and policy, and wrote

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to carers asking them to complain if they felt they had wrongly been denied free home to school transport.

**(16010469)** Mr B's mother had a care package which the council charged for, based on its assessment of what she spent on disability related items. In 2016 the council changed its policy to award set amounts for disability related expenditure. This was based on how much in disability benefits the person claimed. People could appeal if they felt their expenses were higher than the allowance paid. The new policy said people might have to send receipts to the council to evidence expenditure. We found the council didn't properly explain the new policy to Mr B or his mother either before, or during the assessment. This meant Mr B did not keep receipts and when he challenged the allowance as not being enough he couldn't provide evidence.

**(16014233)** Mr Y had dementia and received care at home from an agency. He used a combination of council commissioned and private carers. He got extra income from a War Disability Pension. Until 2015 the council had a policy to disregard this type of pension when calculating what people had to pay for care. The council then changed its policy to include income from War Disability Pensions.

It did not consult on the new policy or give any advance notice to people potentially affected by this change. The council was entitled to change its policy but we found it should have done more to warn people about such a significant change to charging. Because Mr Y had dementia it should have taken more care to make sure he understood the change. Government guidance says councils should give people time to pay off new, unexpected bills. If the council had properly warned Mr Y's family it could have made alternative arrangements for his care. Because of our investigation the council agreed to look at ways to give more notice to service users when making significant changes to charging. It waived Mr Ys outstanding balance and apologised to the family.

**(16004846)** The council introduced a new post-16 transport policy for young people with special educational needs and disabilities. It said this was necessary because of cuts to the council's budget. The new policy restricted help with transport to families in exceptional circumstances only. It would, for example, look at the length and complexity of the journey and whether parents could reasonably be expected to provide transport themselves. Several people complained to us about how the council considered their applications. We found no fault with the new policy. The council, faced with new funding pressures was entitled to ask if parents could provide transport themselves, taking into account their working partners, access to vehicles and income. However, we found the council did not explain how the panel had made its decisions. It agreed to refer cases back to the Panel, record how it reached its decisions and the evidence it had used to make them.

**(16018163)** Mr X's father, Mr Y, was discharged from hospital after an amputation. The council said he needed support to regain his independence, helping him adapt to his new situation. It said enablement support would help him recover and regain mobility to return home. Its policy was to immediately charge for this support, rather than allowing the first six weeks free as the law requires.

The council used two approaches: one 'recovery programme' that is NHS funded, bed-based intermediate care and one 'enablement service' that is provided in care homes, helping people to

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prepare to live at home again. We found that its 'enablement' service was no different to bed-based intermediate care. Just referring to intermediate care by another name does not allow the council to charge for it. Statutory guidance says councils must provide intermediate care and reablement free of charge for the first six weeks.

When we pointed this out to the council it said it would have to withdraw its enablement service if it could not charge for the first six weeks. We recognised the financial pressures on the council but said its duties under the Care Act were clear. It must promote wellbeing and independence, intervene early, help people retain or regain skills and confidence and help avoid them getting worse.

We recommended the council review its policy to ensure it is compliant with the Care Act, specifically regarding charging for enablement care. We also asked the council to write to other adults who received care to increase their independence and arrange to refund their costs for the first six weeks of their enablement package.

**(15006450)** Mr X complained the council failed to properly assess a planning application for development near his home. We found the council's planning procedure guidance includes a site visit assessment process to decide if a visit is necessary. The guidance had a '70% no site visit' target to help cut the cost of the service. We recognised site visits take time and involve cost. We also recognised the financial and time pressures facing the council. However, we said the very significant target of 70% no visits carried the risk that meeting the target might improperly influence the exercise of case officer's professional judgment. The council has reviewed its approach to planning application site visits.

**(16004530)** The council arranged social care support for Ms S including help with household tasks. The council introduced a new charging policy and reassessed service users. Even though Ms S's care plan did not change and the council did not reassess her finances, it reduced her Disability Related Expenditure. It told her 10% was the maximum allowed without taking account of her individual circumstances. It gave misleading and inaccurate advice and put the onus on Ms S to challenge reduced benefits rather than making appropriate enquiries and assessments. Following our investigation the council agreed to review its policy for financial reassessments. This put the onus on the council to make enquiries to get the facts rather than rely on vulnerable people to challenge reductions in benefits.

**(14015230)** Mrs B was a single parent, working full time, and with two children. She had a package of care for her older child who had significant disabilities and needed almost constant supervision. The council introduced a new policy to cut costs, and reduced the support it would give Mrs B. The policy was to no longer provide direct payments to support carers who were going out to work. We found the Council's application of this policy unfairly restricted its ability to consider Mrs B's circumstances, even when it was clear her child would not have support while she was at work.

We found no evidence the council considered Mrs B's circumstances. It did not consider the impact on Mrs B of her having a reduced care budget. Instead it assumed she would take time off work, even though she made it clear she did not have enough leave to do so. As well as personal

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remedies, the council agreed to revise its policy to ensure it could not be interpreted as an absolute bar on payments for supporting a child when a parent is working.

**(16002530)** Mr X's son was in his late 40s with Downs' syndrome and severe learning difficulties. He lived at home and was cared for by his parents who are both elderly. For many years he went to a day centre for five days a week, had eight days weekend care and 28 days respite care per year. The council then changed its policy for respite care to save money. The new policy set a maximum of two weeks respite per year. Anything over this needed to be exceptional. This resulted in a reduction in Mr X's care.

We found the council provided no reasons for the change in Mr X's level of service. His care assessment did not explain how a reduction in care would still meet his eligible needs, which had not changed. This was the third complaint we investigated where the council had not explained its decisions to reduce support. It agreed to reassess Mr X's and his parents' needs and give a clear explanation, if necessary, of how any reduced support will still meet their eligible care needs.

**(14010195)** Miss X was a single mother of two children. Her youngest son Y was disabled and a child in need. Miss X asked the council to provide short breaks support, wanting a support worker to take her son to youth activities once a week during term time. The council decided Y did not qualify for support and that universal services would meet his needs.

The council had recently changed its approach, raising thresholds for eligibility for short breaks because of budget pressures. Its criteria were not spelt out, only that it would now only provide services to children with the highest need, which was unspecified. We found the lack of published criteria meant Miss X could not work out what services Y was entitled to. The council agreed to publicise clear criteria having consulted with parents and carers about them.

**(16000780)** Mr Y was a young man who lived at home with his parents and younger sister. He had medical conditions and received council support for several years. He had six nights a month at a respite centre and 18 days a year at a day / holiday club. As he approached adulthood his parents contacted the council about transition planning. The council took too long to assess his needs, agree funding and implement respite care. It reduced Mr Y's care package by half, but there was no suggestion his needs had reduced. We found the council had not explained how it decided to reduce respite care, based on Mr Y's needs. Social worker records suggested they understood the council was adopting a blanket 'maximum' number of respite days per year. The council agreed to review its policy and procedures.

**(15008823)** Miss Y lived with her sister and brother in-law. She had learning disabilities and required care. She had recently been diagnosed with dementia meaning she needed more care and supervision. She had a personal budget to cover attendance at a day centre, domiciliary care and respite care. The council approved savings in its health and social care budget equivalent to 278 weeks respite care in the financial year. It did not produce a new policy but directed social work teams that the maximum amount of respite they could award someone was four weeks. This meant it reduced respite care to Miss Y without completing a needs assessment. This meant the council was not providing care based on need but based on the requirement to save money. The council

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agreed to review its process, award respite that had been missed, and provide a similar remedy to other service users affected by its blanket policy.

**(15003872 and others)** The council's policy for free home to school transport had been to provide free travel if the child's school was the catchment area school or designated school, or if the nearest school was beyond the statutory distance. To save money it introduced a new policy to only provide free transport if the nearest suitable school was beyond the statutory distance. Catchment or priority admission areas would no longer apply.

The council consulted appropriately on the new policy. However, we found it provided unclear information to parents. It did not warn parents about the change in a clear and obvious way. In particular, it failed to be clear about how it would measure distances, causing confusion about whether it would use walking or driving routes.

**(15018169 and others)** The council provided specialist home to school transport to some families whose children have disabilities or special educational needs. It changed its policy and decided some families were no longer eligible, despite the families' needs not changing. We found the council could not explain how it had made its decisions, explain how it had taken account of individual circumstances and supporting evidence. The council agreed to review its decisions on the cases of four families that complained to us. It agreed to review its procedures for school transport appeals.

**(16017084)** The council made significant cuts to Mrs C's care package without an assessment of needs. Management comment was that the existing direct payments package was too substantial and reflective of residential care rather than home care so needed to be cut back substantially. We found that while councils must always have due regard to public purse, care provision should be based on assessed need and where no evidence exists of appropriate assessment, this sort of comment may indicate inappropriate attempts to ration resources.

**(17018747)** The council introduced a new policy for dealing with noise complaints. It said it would only act when three different people complained about the same issue. The council had introduced the policy to address resourcing issues. A woman complained over the course of three years about loud noises from a generator in a neighbouring property. As she was the only person affected, she couldn't meet the criteria for investigation.

We found the policy did not meet statutory obligations. The council cannot refuse to investigate complaints of statutory nuisance, even if only one person has complained. Over the course of our investigation, we uncovered that more 6,000 other noise complaints had been declined because of the faulty policy. As a result of our investigation, the council agreed to change its policy, including removing the filter for the amount of people having to complain, and publicise this so other people who lost out could hear about it.



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**(16015946)** The council was at fault for how it reduced the level of respite care for Mrs N and her transport provision for her adult son Mr P who has complex needs. The council introduced maximum budget levels, and decided that Mr P's disability fell into a certain band. Therefore his funding could not exceed a certain level. The Care Act says that councils can use bandings as a guide but statutory guidance says such systems are unlikely to work in complex cases such as this.

The council's decision to ask the family to part fund the transport to the day care centre appeared to be part of a general withdrawal of provision and a cost cutting exercise. The decision was not based on assessment of need and therefore was not made as the Care Act requires. We also found the council was using an outdated assessment tool to calculate the amount of support offered to people. The council agreed to change its policy to make it compliant with the Care Act and to review cases of other people potentially impacted by use of the assessment tool.

## **Delivering services through new organisations, partnerships and commercial arrangements**

**(16013981)** The council used a private company as its agent to manage a loan scheme to renovate empty properties to a decent standard. Ms X applied for a loan to be paid back by the company in lieu of rental income until the loan was paid off. The company subsequently stopped trading and went into receivership. An internal audit found significant weaknesses in how the council managed its relationship with the company. It found the council had overlooked or overridden normal management controls, procedures and statutory requirements when it set up the scheme. It had not properly understood the scheme or how the company operated it.

Ms X spent her own money to renovate the property believing she would get the money back. This did not happen. The company did not pay money to Ms X on behalf of the council, despite the council paying it. Following our investigation the council agreed to pay the outstanding rent owed, an additional amount for interest and continue paying guaranteed rent. The council made significant improvements to how it manages this type of relationship to prevent similar things happening again.

**(16009086)** Mrs X complained to the council that the care agency the council commissioned to provide her with domiciliary care repeatedly failed to provide what it was charging for. All councils use care agencies to provide care for people on their behalf. Our investigation into this complaint found the council seemed to expect Mrs X to simply accept the terms of the council's care contract without having any informed choice or transparency about what she was getting. It did not review the situation when it became clear the contracted hours were not matching her needs. As a result, she paid extra for periods of care she didn't need and didn't get because of the framework the council had set.

**(16007469)** The council placed the Mr A's wife, Mrs A, in a care home for 10 months because there was no home care available. She spent this time in a dementia unit despite not having dementia. The council used to have over 75 arrangements with home care providers but did not have enough capacity to meet demand. It went through a procurement exercise and contracted with 12 prime providers, transferring 3,500 people to the new contracts. However, no provider was willing to

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provide the care Mrs A required at home so she had to stay in the care home. This meant Mr A had to travel a 30 mile round trip to visit his wife every day.

We found that the council should have decided Mrs A's needs took precedence over its concerns about the implications of it spot contracting with a specific provider to give Mrs A care at home. The council agreed to pay Mr and Mrs A for distress and cover the cost of transport expenses for the 10 months. The council agreed to consider other people affected by the same fault and so it reviewed other short-term residential placements. Where these lasted more than eight weeks it considered payments for distress and travel. It agreed to try to source suitable homecare providers and ensure care and support plans are up to date.

**(15016155)** Ms X couldn't appeal against the council's refusal to grant her daughter free home to school transport. The council had transferred many administrative functions to a company, shared with another council. The company initially operated without an appeal process. We found evidence of considerable confusion and miscommunication about policies by staff in the council and its company. Company staff, acting for the council, were unclear about how Ms X could appeal, if at all. Because of our investigation the council put clear advice on its website, and that of the company, about how to appeal and made company staff aware of the correct process.

**(16003062)** The council offered unsuitable interim accommodation to a homeless man with mental and physical health problems. For three and a half months he was without accommodation, sleeping rough and sofa surfing. He lived in unsuitable temporary accommodation for eleven and a half months more than necessary. The man had to complain to the us because the council did not deal with his complaint in accordance with its procedures. Our investigation found the council was outsourcing some services and it was unclear how the in-house complaint team would liaise with those outsourced services. We asked the council to review and improve its complaint handling arrangements, including those for outsourced services.

## **Restructuring and redesigning services**

**(16007253)** Mr X complained about the council not investigating his complaint about a care agency's failure to provide domiciliary care for his mother. We found the council had accepted the care provider's investigation without properly considering the evidence, such as timekeeping, records of service delivery and changes to care. It took the council six months to respond to the complaint. The council said this was because of restructuring of its adult social care service which meant officers had moved on, and this had caused delays and inconsistencies in communicating with Mr X.

**(17000056)** Mr B complained to the council about a double glazing company. He asked for advice on what action could be taken about it. After taking more information from Mr B the council ignored Mr B's request for a reply over a five month period, before finally responding to say it could not deal with his request because he did not live in its area. He complained to the council and it did not reply to his complaint. When we investigated what happened, the council said the poor responses it gave were because of departmental restructuring.

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**(14016547)** The council took eight months to make a decision about Ms A's homelessness application, putting her and her children in unsuitable temporary accommodation during the wait. The council told us the delay was because of staff restructuring and a large backlog of cases.

**(15004018)** Mrs B moved to a nursing home and was diagnosed with a degenerative illness. She said she wanted to return home and asked the council to assess her needs. The social worker suggested this would best be done in three months. The council failed to carry out the assessment. Eventually, after Mrs B complained, the council carried out a new assessment, five months after it said it would. Our investigation found the delay was because of poor coordination between different social work teams. The council said this was because it was going through restructuring and staff were carrying heavy workloads. The council said further restructuring and a new electronic recording system would prevent this reoccurring.

**(15016912)** The council wrongly refused to accept Mrs X's homelessness application until she was actually homeless. It then took no action when she asked for help. Mrs X had to formally complain before the council assessed her as homeless. During this time, she had to stay with friends and sleep on sofas. It is likely the council would have offered Mrs X temporary accommodation during this time if it had dealt with her application properly. After she complained the council accepted a full housing duty for Mrs X and agreed to backdate her application to the point it should have accepted her to give her higher priority. The council told us the problems Mrs X experienced were caused by restructuring across its housing department, with new procedures being put in place at the time Mrs X asked for help.

**(15016358)** The council failed to process Mr B's complaint about unauthorised development by his neighbours. It didn't acknowledge or deal with his later complaint about this. It did nothing until our investigation. It then investigated the situation and decided it did not cause Mr B harm. It then failed to tell Mr B this decision. The council accepted it gave Mr B exceptionally poor service explaining it was undergoing restructuring and drafting a new enforcement policy at the time. This meant enforcement complaints were not being processed as they should have been.

**(15013519)** Mr and Mrs C complained the council failed to fully remedy faults identified by a stage two statutory children's social care complaint investigation. This was about when their child was removed from the family home and placed with alternative carers. The independent investigation found poor record keeping, and a lack of consistency and good practice by the council. It explained these were partly because it was using temporary staff on agency contracts as social workers. It said these staff didn't have in-depth knowledge and experience of the council's procedures and might have lacked the commitment of permanent employees. It said the poor consistency was down to frequent staff changes handling the children's cases. The investigation said restructuring of social teams and work was a factor. The council had subsequently taken appropriate steps to prevent this reoccurring.

**(16008982)** The council started to implement a Controlled Parking Zone but then decided to use the funding for other things. Mr X complained the council had wasted money and he had lost out as a result. The council told us it couldn't explain who made the decision not to go ahead with the Zone or how and why it was made. It could not explain out of date information on its website about

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the decision. It blamed funding cuts, staff turnover and restructures. It said all the people involved in the decision had left the council, and there had been major annual restructures since 2010 meaning entire teams and departments had been changed or deleted.

**(16006391)** Miss X's grandson, B, was a young man with complex needs needing routine and consistency. As his carer, Miss X wanted the council to plan for his transition to adult life. We found the council had failed to properly plan and prepare for this or provide appropriate respite for Miss X. The council explained this was partly due to significant reorganisation of its services. We said the council lost sight of a vulnerable young person and his carer at a critical point in B's life and when Miss X was struggling to fulfil her caring role. As part of our remedy, the council agreed to urgently review its transition to adulthood policies, including closely monitoring cases to ensure delays did not happen again. We referred to a nearby Council as having good practice for transition management. We pointed out other councils have faced similar staffing and resource issues but still provided suitable transition support to the most vulnerable people in their areas.



**Local Government and Social Care  
Ombudsman**

PO Box 4771

Coventry

CV4 0EH

Phone: 0300 061 0614

Web: [www.lgo.org.uk](http://www.lgo.org.uk)

Twitter: [@LGOmbudsman](https://twitter.com/LGOmbudsman)