

The Ombudsman's final decision

Summary: Ms D complains the Council failed to communicate effectively with her about its investigation of anti-social behaviour (ASB) by her neighbour. The Council accepts there were failings. We have upheld the complaint and completed the investigation because the Council agrees to apologise and pay financial redress.

The complaint

1. The complainant (whom I refer to as Ms D) says the Council failed to communicate effectively with her about reports of ASB she made to the Council regarding her neighbour. Ms D says she was not told when her neighbour had been moved and Officers failed to explain the investigation process.

The Ombudsman's role and powers

2. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council/care provider has done. **(Local Government Act 1974, sections 26B and 34D, as amended)**
3. We cannot investigate complaints about the provision or management of social housing by a council acting as a registered social housing provider. **(Local Government Act 1974, paragraph 5A schedule 5, as amended)**
4. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused significant injustice, or that could cause injustice to others in future we may suggest a remedy. **(Local Government Act 1974, sections 26(1) and 26A(1), as amended)**
5. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. **(Local Government Act 1974, section 30(1B) and 34H(i), as amended)**

What I have and have not investigated

6. I am looking at what happened from April 2022 onwards. I am not looking at earlier events because Ms D could have formally complained sooner. I am also not looking at how the Council investigated the ASB incidents caused by a Council tenant (the neighbour) because that falls outside of our remit as set out

above. My investigation concentrates on how the Council communicated with Ms D.

How I considered this complaint

7. I have spoken to Ms D and considered the information she provided. I Asked the Council questions and examined its response and case file.
8. I shared my draft decision with both parties.

What I found

What happened

9. At the end of March 2022, the Housing Officer (Officer) dealing with Ms D's case received reports from Ms D about ASB caused by her neighbour. The Officer visited the neighbour, but I cannot see that she fed this back to Ms D. In May the Council issued a warning letter to the neighbour regarding ASB. In May Ms D formally complained about how her case had been handled. The Council replied on 24 May that a new Officer had been appointed. It also said that after consideration of Ms D's report in March a formal warning letter had been issued to the neighbour.
10. In June Ms D reported ongoing issues with the neighbour. At the end of August, the Officer left a voicemail for Ms D asking when she could discuss the case with her. I have no clear record to show whether a discussion subsequently took place. In September Ms D asked the Council to reconsider her complaint. The Council issued a response on 30 September. It said that "communication from (the Officer) has fallen well below the standard we expect". There had been a failure to take action which was "unacceptable" and was being addressed. The Council apologised and offered Ms D £250. It said the Officer would progress the case whilst being supervised by a Team Leader.
11. On 27 October the Officer emailed Ms D about a Council and Police event, Ms D replied with concerns about the event. A month later Ms D updated the Officer about a prosecution against the neighbour. On 1 December the Officer emailed Ms D about the Council and Police event referred to in October communications, she apologised for the delay replying. On 8 December the Officer emailed Ms D that no new complaints had been received from third parties about the neighbour. Ms D replied that she felt the Council did not care and did not want to act.
12. On 13 January 2023 the Officer emailed Ms D to see if there had been further incidents. Ms D replied on 7 February she was fed up the Council was not taking her case seriously. On 23 February Ms D reported issues with waste left out by her neighbour. The Officer replied the next day, she had notified the Waste Management Team. At the end of the month Ms D reported further issues to the Officer. The Officer asked for more details which were supplied. On 2 March the Officer told Ms D she had met the neighbour and was working to a solution on the case. In March Ms D corresponded with the Officer about footage of another incident. The Officer offered to visit to view the footage. Ms D declined this because a previous visit by an Officer had left her feeling dismissed. Ms D provided footage to the Council for it to view.
13. At the end of April, the Officer visited other neighbours who had also complained about ASB. She noted they were already aware the neighbour perpetrating the ASB had moved. She confirmed the case was closed but could not comment on who had moved the neighbour.

What should have happened

14. The Council's 2018 ASB Policy is brief. It sets out the Council's role and scope in ASB cases. It does not provide procedural guidance for Officers. It says that when a report of ASB is received the Council should register it and allocate to an Officer to investigate.
15. The Council says that in practice once a case was allocated the Officer should have contacted the complainant, given details of their role and obtained additional information. They also should have discussed action points with the complainant and agreed the frequency of contact.
16. When the Officer investigating a case changes, the new Officer should contact the complainant and introduce themselves.
17. Once the Council reaches a decision on an ASB investigation it should notify the complainant.

Was there fault by the Council

18. The Council accepted its communications with Ms D had fallen below standards in its September 2022 complaint response. Unfortunately, the Council then failed to improve the service provided to Ms D despite its assurances. In its response to my enquiries the Council set out that it has reviewed its handling of Ms D's case. That review "has shown several gaps in the way the service specifically related to ASB management was delivered" and the "recording of communication". The Council should have improved communications about how the case was being managed but had failed to do so. In addition, there should have been "more reassurances for [Ms D] about action being taken".
19. I agree with the comments made by the Council. The evidence shows no significant improvement in communications during the period I have investigated. Given the Council's September 2022 findings I would have expected evidence of intervention by the Team Leader to ensure the communications were improved and Ms D was given a better level of information about how her case was being progressed.
20. Ms D refers to the Council using "alleged" in response to her reports about ASB. She felt that was undermining given her neighbour was prosecuted for some incidents. I do not see evidence of fault in this matter. The Council is obliged to use "alleged" in relation to any reported incidents until it receives confirmation from the Police about a successful prosecution for those specific incidents. The Council has told me the use of "alleged" was in no way intended to diminish the complaint.
21. Ms D says Officers used "noted" in response to her reporting ASB incidents. I have not seen evidence of this in the case file and, therefore, am unable to uphold the complaint.
22. Ms D says the Officer failed to explain her role and discuss how to communicate with her. There is fault by the Council. As set out above the Council accepts the case should have been managed better and that communications between the Officer and Ms D were not up to standard. This failure continued until the case was closed.
23. Ms D complains that she was not told about the closure of the case like her neighbours, in particular that Officers visited some neighbours and told them the person complained about had moved. The evidence shows Officers did meet some neighbours who were already aware the person had moved. The Officers did not provide any details about the neighbour moving. Whilst I have no evidence

to show the Officers gave other neighbours information, I do note there were poor communications with Ms D to notify her about the closure of the case and what had happened. The Council also tells me “there could have been better communications” when the case was closed.

Did the fault cause an injustice

24. The Council’s poor level of communications with Ms D left her uncertain about what action was being taken and how her concerns were being addressed.

Agreed action

25. The Council has reviewed this case and taken lessons from it to improve its future service delivery. It has acknowledged a lack of written procedures for ASB staff. Instead, there had been a reliance on Officer knowledge. The Council has committed to drafting a new process guide for staff “as a priority”. It says it recognises “that change is necessary”. I welcome that positive approach by the Council. In addition, I asked the Council to consider paying Ms D £250 for avoidable uncertainty and distress caused by the failures that carried on after the September 2022 complaint response. If Ms D has not yet received the original £250 offered the Council should pay a total sum of £500. It should also send Ms D a letter of apology. The Council has accepted that remedy.
26. Ms D refers to costs she incurred as a result of her neighbour’s actions. That is not something the Ombudsman can seek to compensate as we are solely looking at how the Council communicated with Ms D.
27. The Council should provide us with evidence it has complied with the above actions. It should apologise and issue payment to Ms D within four weeks of this case closing. It should also tell us within the next three months about progress on finalising the guidance for ASB officers.

Final decision

28. I have completed the investigation and upheld the complaint.

Investigator’s decision on behalf of the Ombudsman