# Local Government & Social Care OMBUDSMAN

# Equal access: Getting it right for people with disabilities

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#### Ombudsman's foreword



Accessing local services is not always simple. People are sometimes required to navigate unfamiliar and complex processes and procedures to get the support they need. For people with disabilities, this can be especially daunting as they often need help to access and communicate with these services because of their disability.

The Equality Act 2010 requires local services to make sure people with disabilities can access their service as easily as people without disabilities.

The complaints we investigate in relation to Equality Act duties are mostly about failures by local services – such as local councils, social care providers and schools – to make reasonable adjustments for people with disabilities. This includes a large proportion of complaints from people with "hidden disabilities" which may not be immediately apparent when a person first accesses a service.

The COVID-19 pandemic has brought "hidden disabilities" more into the public consciousness as schemes such as "sunflower lanyards" have become more widely used. However, it should not be necessary for people with hidden disabilities to make themselves visible to services unless that is their personal choice. One of the learning points from this report is that local services should be proactive in asking every person who approaches the service whether they need any changes to be made in the way they are dealt with.

In some areas, COVID-19 has also accelerated the shift we've seen happening over the past decade in how local services are delivered, with more and more being automated or delivered online. While we recognise the benefits this can bring to both local services and service users, it is important that the needs of people with disabilities are not lost in the move to deliver more services remotely.

As local services begin to work towards a post-pandemic future, we would urge them to review the benefits and drawbacks that remote service delivery might have on people with disabilities. In this report we share the example of a school which restricted admission appeals to written only submissions due to the impact of the pandemic without providing an alternative means of contact for people unable to communicate in this way.



The Equality Act 2010 requires local services to make sure people with disabilities can access their service as easily as people without disabilities

Duties under the Equality Act are not limited by the type of service provided. Those services giving direct or cognitive support, like social care or educational support, may seem a more obvious place for the duty to take effect. But in this report we share stories of people who have had difficulties accessing a wide range of services from planning to parking.

The stories in this report represent a small sample of everything councils do and may not represent the regular experience for most people. Nevertheless, by sharing the key learning points from when things have gone wrong, it will help councils to reflect on and improve their services for people with disabilities.

The most important learning point we highlight in this report is the duty for local services to anticipate the needs of people with disabilities in their area. This means putting the needs of people with disabilities at the heart of everything the service does, designing services with them in mind, so that their needs can be met before they even come through the door, pick up the phone or write a letter.

Min

Michael King Local Government and Social Care Ombudsman May 2022

# **Background**

#### Public sector equality duty

The Equality Act 2010 protects the rights of individuals and supports equality of opportunity for all. It offers protection, in employment, education, the provision of goods and services, housing, transport and the carrying out of public functions.

The Equality Act also makes it unlawful for organisations carrying out public functions to discriminate on any of the nine listed protected characteristics. The public sector equality duty also sets out duties for such organisations to stop discrimination. The 'protected characteristics' referred to in the Act include age and disability.

Indirect discrimination may occur when a person or service provider takes the same approach to decision making or service provision for everyone. This may then put people sharing a protected characteristic at a particular disadvantage.

The public sector equality duty requires all local authorities (and bodies acting on their behalf) to have due regard to the need to do the following.

- > Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The duty means public authorities must consider equality and good relations when they develop policies and deliver services. They must also keep these issues under review.

#### Reasonable adjustments

Local public services must take account of the needs of different people when designing and delivering services. As well as meeting their legal obligations under the Equality Act, this careful consideration is part of basic good administrative practice. Services that properly consider a service user's needs in their design and delivery are much more likely to be effective and efficient at achieving the desired outcomes.

The Act places a duty on organisations to make changes to their services to ensure that they are accessible to disabled people as well as everybody else. This is referred to as making "reasonable adjustments".

A reasonable adjustment can mean alterations to buildings by providing lifts, wide doors, ramps and tactile signage, but can also mean changes to policies, procedures and staff training to ensure that services work equally well for people with learning disabilities.

The duty is 'anticipatory'. This means public bodies are not allowed to wait until a disabled person wants to use their services – they must think in advance about what people with a range of impairments might reasonably need.

As well as considering needs arising from visible, often physical health issues, this means local services must think about how invisible or hidden disabilities might affect people who need to access their service. These might be because of their mental health or because of less immediately obvious physical illnesses, learning difficulties and disabilities. Services need to decide whether to make reasonable adjustments so the person can, as far as possible, have the same experience as someone without that need.

#### Our role and experience

In 2017 the courts found we had failed to provide reasonable adjustments for a person with disabilities. We saw this as a learning opportunity and have since made significant changes to our working practices. These include asking people at every stage of our process whether they need us to make changes to the way we communicate with them, and keeping this under review. We have also worked on increasing the range of reasonable adjustments we are able to make and produced guidance for our staff. We have also made changes to our IT systems so we can more easily record and review any reasonable adjustments we have put in place.

Our learning has not stopped with this one case. We continue to refine our processes and procedures based on reviews of the complaints we deal with, and learning from our investigations into how local services respond to requests for reasonable adjustments.

In this report we have drawn experiences from our investigations into complaints covering the full range of services provided by local services in our jurisdiction. This includes examples from services like planning and benefits, which may be less familiar with making reasonable adjustments than a service like social care.

The law says we cannot investigate complaints where a person has a right of appeal to court. If a person believes they have been discriminated against because of the actions of a service provider, they may make a claim for damages in county court.

However, in most cases we will decide to look into complaints about a failure by local services to provide reasonable adjustments. This is because it would not generally be reasonable to expect complainants to go to court. The government guidance backs this up in saying:

"Defending or taking a claim in court can be lengthy, expensive and draining. It can also have a damaging impact on the reputation of an organisation. It is likely to be in everyone's interest to try to put things right before a claim is made to a court".

If we find there has been injustice as a result of a failure to provide reasonable adjustments, we will not provide damages in the same way as the courts. We will recommend the service takes action to remedy the situation. This may include a financial payment to acknowledge any distress caused and, where appropriate, actions to improve the local service to avoid the same fault affecting others.

#### Complaint statistics and trends

We have recently developed how we categorise complaints and enquiries involving Equality Act issues to enable us to better report on trends. In the majority of cases, problems with Equality Act duties are registered as a secondary category as they are usually intertwined with a primary substantive matter, such as housing or adult social care for example.

In the last year (April 2021 – March 2022) people made 122 complaints and enquiries to us about councils, and other local services, in which we recorded Equality Act duties as a factor in the complaint.

In the same period we agreed to make reasonable adjustments to the way we work for people using our service on 1,398 cases, regardless of what the complaint was about. This is approximately 8% of all the complaints and enquiries we received (16,946).

# Common issues and learning points

# Failure to anticipate need for reasonable adjustments when developing policies and procedures

Local public services have a duty to ensure they anticipate the needs of people with a wide range of disabilities when developing policies and procedures, to ensure they are not discriminated against.

In most cases local services will do this by carrying out an equality impact assessment. Services should not pay lip service to equality issues when completing these assessments. They should put the needs of disabled people at the heart of any policy or procedure being developed.

Over recent years we have seen local services move towards delivering more services online. While this can have benefits in providing quick and easy access for most of the public as well as saving costs, it has the potential to disadvantage those who may need services delivered face-to-face or by telephone to meet their needs.

During the COVID-19 pandemic services had to rapidly adapt to changing rules around contact with the public. This meant more services were delivered remotely and online. However public services still have a duty to anticipate the needs of people with disabilities and in moving away from face-to-face contact to online services there is a risk that some people's needs will not be met.

Dealing with complaints is a key frontline service and so local services should pay particular attention to ensuring complaints processes are accessible for everyone who might use their services. Providing a range of ways for people to raise complaints not only ensures fair access for all but also provides services with opportunities to learn from complaints, shining a light on underlying problems that have the potential to cause future injustice.



#### Jane's story

Case reference: 20 002 492

Jane complained the council breached disability discrimination law and human rights law when it installed public litter bins that are not accessible for use by disabled people, small adults and children. She thought the council had not properly considered its responsibilities under the relevant law. She cannot use the bins but she also considers there is a wider injustice to others who will be similarly affected.

The council, and others acting on its behalf, have duties to ensure they consider both the public sector equality duties and reasonable adjustment duties when making decisions about providing services.

Our investigation said the council could not show it had considered its public sector equality

duty when reaching a decision on the bins. This was because the decision had been made by a contractor and the council did not have access to information about how the decision was made. It called into question whether proper consideration was given to the council's duties. That was fault.

#### How we put things right

As part of our recommendations, the council agreed to publish its Local Environmental Quality Plan. This set out its approach to litter disposal infrastructure, detailing how it will have proper regard to its public sector equality duties and reasonable adjustment duties. The council also said it was undertaking a review of bins in its area.





#### Amma's story

Case reference: 20 004 888

Amma applied for a place at a school for her child and it was refused. She appealed to the school's independent appeal panel.

As part of the school's admission appeal, we found the school was holding 'written-only' appeals to allow equity of access during the COVID-19 pandemic.

The school said this was because there was a "higher proportion" of appellants who may not have access to the technology to 'attend' a video hearing, and/or for whom there is a potential language barrier. It said deciding all appeals on just written submissions was fairer. However, the school did not consider how this decision may have had a disproportionately negative effect on those unable to present their case in writing.

The Equality Act 2010 places an anticipatory duty on local public services to make reasonable adjustments for those with disabilities. This means the school should have considered, in advance, what steps it could take to ensure equal access to any appellant who might find it difficult to make contact in writing.

We criticised the school for not offering alternative ways for appellants to make their appeal submissions – for example, by making a voice recording rather than a written case. It could not therefore show it had met its public sector equality duty.

The school said its "Notice of Appeal" explained it could make reasonable adjustments. However, the school only gave an email address when it invited appellants to submit questions on its case to the panel. It did not give other ways to contact the school if an appellant had difficulty with writing.

We found the school at fault for not fully considering its Equality Act duty and had failed to anticipate its duty to those who may have difficulty writing.

#### How we put things right

This did not disadvantage Amma in bringing her appeal but we recommended the school make changes to its appeals process to ensure it complied with its duties under the Equality Act 2010.

#### Failure to ask if reasonable adjustments are needed

The Equality Act 2010 places a duty on local public services to "anticipate" the needs of people with disabilities accessing their services.

We routinely ask everyone who accesses our service whether we need to make changes to the way we communicate with them at every stage of our process.

We consider it to be good practice for local services to do this whenever they interact with service users, whether this is the first time a person has used the service or not.

By asking service users if they need to make any changes to how they communicate, local services can provide people with disabilities an opportunity to discuss any barriers they might face accessing the service and possible solutions. This is particularly important with hidden disabilities where people may feel unable to volunteer their need for an adjustment until asked.



#### Terri's story

Case reference: 19 000 931

Terri owns land and runs a business from it. She has a trailer on the land which she uses as a field shelter. The council served Terri with an enforcement notice which she successfully appealed.

The council then carried out a site visit and discussed the appearance of the trailer. Terri explained to us that she had autism and had found it hard to communicate with the council during the site visit. She said she would have liked notice of the visit so she could arrange to have someone with her.

Following the meeting Terri agreed to paint the trailer based on sample colours shown to the council. When Terri finished painting the trailer she sent the council a photograph. The council said the trailer had not been painted in the agreed colour.

In response to our enquiries the council confirmed the colour of the trailer was acceptable, however it had not informed Terri. We said this was fault. The council agreed to make reasonable adjustments for Terri in future and confirmed to her the trailer had been painted in an appropriate colour.

#### Learning point

It will not always be appropriate for enforcement bodies to give advance notice of visits. However, we would expect bodies to check what reasonable adjustments a person might need and, if appropriate, put these in place as soon as practicable.



#### Simon's story

Case reference: 19 019 811

Simon asked the council for help with his care needs.

The council arranged a telephone call to assess his needs. It told him this would last 20 minutes. Simon says he told the council he was unable to manage a longer call as he has Autistic Spectrum Disorder. However, the call lasted an hour. Simon says he asked for a face-to-face meeting but the council refused.

Our investigation found the council at fault because there was no evidence it had asked Simon if he needed any reasonable adjustments during the initial call. It had also failed to record Simon's request to only speak for 20 minutes.

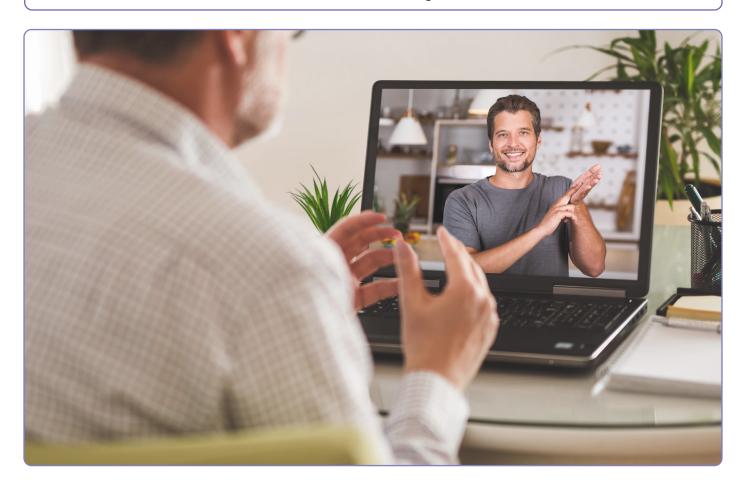
The council's policy said it can send questions in advance so service users can prepare for the

telephone assessment. But this did not happen in this case.

We found the council had failed to have due regard to its obligations under the Equality Act. We said this caused Simon distress which was compounded by the need to make a complaint and further telephone calls to resolve the situation.

#### How we put things right

The council agreed to our recommendation to pay Simon a small financial remedy to acknowledge the distress caused. The council also agreed to remind staff of the need to check whether service users need adjustments to the way they usually work, and to review its staff training needs in this area.



# Failure to anticipate reasonable adjustments where the council is aware of a person's disability

There will be cases where local services are already aware of a person's disability because of services it is already providing to them. This is particularly relevant to care services for adults and children, and housing.

Where a service is aware of a person's disability it should anticipate their needs and make any necessary reasonable adjustments in consultation with them or their representative. The service should not wait for the person to tell them what adjustments they require.



#### Anette's story

Case reference: 20 007 318

The council became involved with Annette's children due to concerns about her mental health and other issues in the home.

Although the council was aware Annette had mental health issues it failed to ask her if she needed it to make any reasonable adjustments in the way it communicated with her. Annette told us that, if the council had asked, she would have explained that she finds communication difficult and would have benefited from additional time and support.

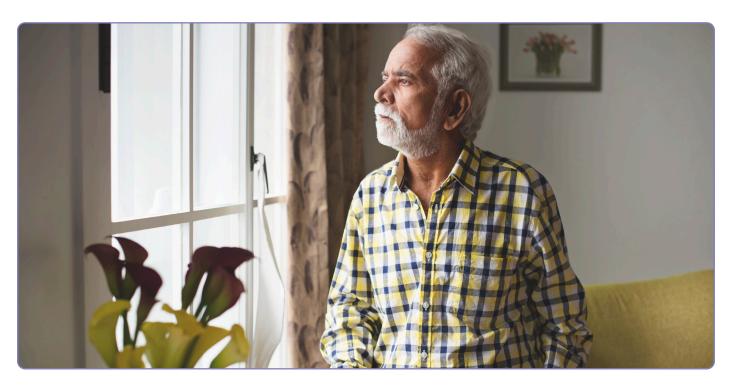
The council did agree that Annette's father could be present to support her at meetings however it did not record this as a reasonable adjustment.

Annette reminded the council on several occasions that she had a disability. This should have prompted the council to ask if she needed it to make any reasonable adjustments but this did not happen.

The council's failure to make reasonable adjustments meant it became difficult for both parties to communicate. Annette sent the council large volumes of emails and text messages which it was unable to respond to. This increased Annette's sense that her concerns were being ignored.

#### How we put things right

We found the council's actions had left Annette with a feeling of uncertainty. The council agreed to pay a financial remedy to acknowledge this and review its services to ensure people were routinely being asked or prompted about any reasonable adjustments.





#### Malik's story

Case reference: 19 015 787

Malik was diagnosed with Alzheimer's disease while living in a care home, which listed dementia as one of its specialisms. Despite this, the care home served him with notice to end his placement as it said it could no longer deal with his challenging behaviour. The home said that Malik was not aggressive but showed "substantial resourcefulness" in leaving the premises.

Malik's daughter told the care home that Malik's consultant had recommended options for dealing with his behaviour. One option was for Malik to remain in the home and trial new medication with the home monitoring him for six weeks before reaching a decision on terminating the placement. The care home decided it was safer for Malik to be placed elsewhere than trial new medication.

Our investigation found the care provider at fault because there was no evidence it had considered making a reasonable adjustment for Malik by trialling the new medication. The

Competitions and Markets Authority's (CMA) guidance says no longer being able to safely meet a person's care needs is a legitimate reason for ending a placement. But it also says this should only be the case if a person's needs cannot be met after any reasonable adjustments have been made.

We found that the care provider had missed an opportunity to make reasonable adjustments recommended by Malik's consultant and this caused him and his daughter uncertainty about whether he could have remained in the care home.

#### How we put things right

The care provider agreed to our recommendations to pay Malik a financial remedy to acknowledge the uncertainty he suffered, and review its contract terms with reference to CMA guidance.

#### Failure to make requested reasonable adjustments

Where a person asks for reasonable adjustments to be made local services should put these in place unless the request is not considered reasonable. A person should not be required to provide evidence of their disability before reasonable adjustments are made.

In some cases people will not know what adjustments they require or what can be provided, so the service provider should be ready to discuss a range of possible options to meet their needs.



#### Sadie's story

Case reference: 19 004 621

Sadie was unhappy with proposals in a planning application for a development next to her home. She wrote to the council to object to the application and asked to speak at the planning committee considering the application.

At the planning committee meeting Sadie asked for more time to speak and permission to distribute annotated copies of the proposed plans. She explained this was because she was dyslexic. The Chair of the planning committee refused to allow her to distribute the plans and said she could only speak for the standard time allowed.

The committee voted in favour of granting planning permission.

In response to Sadie's complaint the council accepted it should have made reasonable adjustments for Sadie in addition to identifying a number of other faults in the way the application was considered.

#### How we put things right

The council arranged for the planning committee to reconsider the application. Sadie was given more time to speak and was allowed to distribute her annotated plans. The council also agreed to pay Sadie a financial remedy to acknowledge the distress and time and trouble she was caused. Our investigation decided this was an appropriate remedy for the faults the council had accepted.





#### Ryan's story

Case reference: 18 001 442

Ryan is dyslexic and struggles to understand written information. He received parking charge notices from the council. The notices did not provide any contact details for the council but said they could be challenged via the council's website.

Ryan wrote, with some difficulty, explaining he needed reasonable adjustments and would like to speak with someone about an appeal. The council continued to respond to Ryan in writing.

When the council did speak to Ryan it did not ask what reasonable adjustments he needed and it refused to allow him to make his appeal verbally.

Our investigation found the parking charge notices and the council's website only provided details of how to make an appeal in writing. Neither provided a contact telephone number. We said the council should have anticipated the needs of people who may need to access the service and should provide and publicise ways to request reasonable adjustments on its website and on its parking charge notices.

#### How we put things right

The council agreed to pay Ryan a financial remedy for the distress caused and we asked it to ensure he was given an opportunity to make his appeal verbally. The council cancelled Ryan's outstanding parking charge notices instead.

The council reacted positively and used our investigation to make service improvements. This included making amendments to the wording of its parking charge notices to provide a telephone number where people could request reasonable adjustments and applied our recommendations to services it shared with a neighbouring council.

The council also included the requirement to record information about reasonable adjustments in its draft specification for a new customer contact IT system.

#### Failure to make adjustments in a timely way

Where a person requests reasonable adjustments they should be provided in a timely way so long as the request is reasonable. This ensures the adjustments are put in place and also prevents a person from being disadvantaged, particularly in appeal processes which may be time limited.



#### Matilda's story

Case reference: 19 014 516

Matilda complained to us the council delayed in issuing a final Education, Health and Care (EHC) plan for her son. She said this was partly because it failed to make reasonable adjustments for her dyslexia.

Matilda says she asked for various adjustments to be made because of her dyslexia and communication difficulties. This included reformatting documents, changing how and when documents would be sent, and altering the way the council allocated a key worker for Matilda.

Our investigation found the council at fault for not always making reasonable adjustments for Matilda's disabilities in a timely manner. This included not fixing problems with its software that prevented Matilda being able to access information, which it was already aware of. The situation made Matilda's relationship with the council difficult. We found this could have been helped by telephone conversations. But instead there was a series of protracted correspondences which led to several meetings needing to be cancelled and rearranged. This added to the delays and frustration for Matilda.

#### How we put things right

The council agreed to apologise to Matilda for the delay and for not making reasonable adjustments in a timely manner. It also agreed to review its processes to ensure staff understand the importance of considering reasonable adjustments to meet its Equality Act duties and that agreed adjustments are properly recorded.





#### Maya's story

Case reference: 20 013 127

Maya was responsible for acting on her mother's behalf, who was a resident in a care home.

Maya had asked the care provider several times for information about her mother's care fees. But the care provider delayed providing it, and this led to fees accumulating. The care provider said the delays were caused because Maya wanted to communicate by letter rather than email.

Our investigation said there was nothing in the care provider's terms and conditions that said communication must be by email. We also said the care provider should have procedures in place to communicate effectively, including corresponding by post if someone prefers this.

#### How we put things right

The care provider agreed to our recommendation to pay Maya a financial remedy to acknowledge the frustration and time and trouble she was caused. It also agreed to review how it handles postal correspondence to ensure it can keep track of letters it receives and can manage preferences or reasonable adjustments for postal communication.

# Failure to ensure third parties acting on behalf of local services are considering Equality Act duties

Many councils have outsourced services to contractors or in some cases other neighbouring authorities. We say that contractors are acting on behalf of the council in these situations and we will hold the responsible council to account for any failures in the service.

It is therefore important that, when commissioning services, councils ensure contractors or others

acting on their behalf can meet their Equality Act duties, and they have robust policies and procedures in place for providing reasonable adjustments.

Councils should keep their contractors' compliance with this under review through contract management and complaints processes.



#### Sarah's story

Case reference: 19 O14 201

Sarah complained to the council when the contractor failed to collect her bins as agreed over a number of months. Sarah said that when bins were collected, they were often left in the wrong place blocking her wheelchair ramp.

Our investigation found the council had failed to keep accurate records of people who required assisted collections and did not monitor the service after promising Sarah it would.

Sarah told us that the council and its contractor had also failed to make reasonable adjustments for her autism related needs. Sarah said she found it difficult and stressful communicating with the council and contractors about her problems. Sarah did not tell the council or its contractor about her need for reasonable adjustments. However, neither organisation had a policy or procedure for asking service users whether they needed any reasonable adjustments. We found this was fault. The duty is anticipatory and services should be proactive in providing people with the opportunity to explain any reasonable adjustments they might need.

#### How we put things right

The council agreed to our recommendations to pay a financial remedy to Sarah to acknowledge the distress she had been caused. The council also agreed to put reasonable adjustments in place to meet her autism related needs.

#### Imposing adjustments without considering individual needs

Local services should consult with service users about what reasonable adjustments they need. If a person requests an adjustment which is reasonable, the service cannot refuse to provide it. It cannot impose the service's own preferred adjustment instead.

Local services need to be alert to the individual needs of service users with disabilities and should not impose blanket policies of what reasonable adjustments it will agree to or make available.



#### David's story

Case reference: 21 000 797

David complained the council did not make reasonable adjustments he requested when he contacted it to challenge a Penalty Charge Notice (PCN). David said the council's actions caused him distress and anxiety.

The council's Parking Enforcement Policy says, "The keeper of a vehicle may make a written challenge against the issue of a PCN". David called the council to challenge the PCN. He said he wanted to raise a verbal challenge as he had a disability and asked the council to make a reasonable adjustment in line with the Equality Act.

The council said it required challenges to be provided in writing and suggested David seek some assistance from friends or family. It gave this response three times during different calls with David.

Our investigation found the council had failed to make reasonable adjustments for David, despite having a process in place for this. The council failed to take account of its duties towards David under the Equality Act 2010, and this was fault.

#### How we put things right

The council agreed to remind staff of its duties under the Equality Act to consider providing reasonable adjustments for service users with disabilities, particularly in respect of accepting verbal challenges.

The council also agreed to review information on its website and any other literature regarding challenging PCNs to ensure it complies with the Equality Act and provides ways to request reasonable adjustments and communicate other than in writing.

#### Failure to record agreed adjustments

Once a local service agrees to make reasonable adjustments it should keep a record of these and provide them each time the service user accesses the relevant service.

Government guidance "Equality Act 2010: Summary Guidance on Services, Public Functions and Associations" says:

"Where a person has used the service provider's services before, it will be unlawful to discriminate against them... if the actions of the service provider arise out of and are closely connected to the relationship that used to exist between them".

This means that once a reasonable adjustment has been agreed it should be provided each time a person needs to access the relevant service.

We would not necessarily expect a large public body which delivers many different services to have a central record of reasonable adjustments agreed. Customer service systems and records for different service areas are not always centralised. However, where different service areas are communicating about the same service user they should also share details of any reasonable adjustments that have been agreed.



#### John's story

Case reference: 20 005 942

John complained to the council about a development near his home. John told the council he was dyslexic and preferred to communicate verbally to help him understand what was happening. The council agreed to this.

The council then began sending John email updates about action it was taking, leaving him feeling frustrated.

Our investigation said the council failed to keep a record of reasonable adjustments it had agreed to make for John.

#### How we put things right

The council agreed to pay John a financial remedy and remind officers to record any reasonable adjustments agreed with service users. The council also agreed to review its policies and procedures to ensure it was able to meet its obligations to people with disabilities.





#### Rosie's story

Case reference: 20 006 785

Rosie complained the council failed to make reasonable adjustments when it communicated with her about her son's special educational needs.

The council agreed it would meet Rosie's needs by sending all documents on green paper as she was dyslexic. The council says it met that request.

However, soon after, the council emailed Rosie a copy of an assessment for her son as a word document. Being an electronic document, it was not on green paper.

Rosie felt the assessment was flawed. The way to challenge this was by an appeal to the SEND tribunal. Rosie said she had not been able to do

that because the council had not met her agreed communication needs when it corresponded with her.

Rosie provided our investigation with copies of correspondence with the council, which show the council was not consistently sending documents to her on green paper. We said this was fault because it became harder for Rosie to access the service and take a full role in her son's educational arrangements.

#### How we put things right

The council agreed to ensure any agreed reasonable adjustments are consistently made and it keeps adequate records.

#### Failure to review reasonable adjustments

Once a local service has agreed to make reasonable adjustments these should remain in place but also kept under review. Services will need to be aware that reasonable adjustments made in one area of the service may need to be provided when other services are being delivered.

Local services also need to be alert to changes in a service user's circumstances which may require changes to any reasonable adjustments that have been agreed.



#### Suki's story

Case reference: 20 006 932

Suki complained to the council about the lack of support it had provided to her and her disabled daughter after she had applied for help. The council dealt with the complaint through its children's services statutory complaints process.

The council's stage 2 and stage 3 investigations found fault with the way the council had responded to Suki's needs and requests for reasonable adjustments. The stage 2 investigator suggested Suki be provided with an advocate, but none was provided.

The council also refused to change the date of a stage 3 panel when Suki explained she was unable to attend because of her medication affecting her. The panel was critical of the council and recommended Suki be referred to an advocacy service to be "supported in her future dealings with children's services and the All Age Disability Service".

Suki therefore thought she would have an advocate for all her future dealings with the council. However, the council said it would only fund the advocacy for the complaint process.

Our investigation found fault with the council's decision to restrict the advocacy services to the complaints process. We said the council had failed to demonstrate an understanding of Suki's needs and there was no evidence it had explored her wider need for reasonable adjustments.

#### How we put things right

The council agreed to pay Suki a financial remedy to acknowledge the distress caused by not referring her to advocacy services. It also agreed to review its policies and procedures to ensure it meets it duties to make reasonable adjustments. It would also provide autism awareness training for staff and review its commissioning of advocacy services.

# Promoting good practice

While remedying individual injustice is an essential part of what we do, we also help councils, care providers and other public bodies tackle systemic failures and improve the way they deal with complaints.

In many cases we ask local services in our jurisdiction whether other people are currently, or could be, affected by the same issues raised in a complaint.

# Drawing on our casework, we have identified some positive steps councils, care providers and other public bodies can take to improve services:

- > Review training needs of all public facing staff to ensure they are aware of duties under the Equality Act 2010.
- > Design policies and procedures with Equality Act duties in mind. This includes ensuring:
  - Members of the public are invited to provide details of any reasonable adjustments they might need every time a service is provided.
  - Reasonable adjustments are kept under review and proactively checked with service users.
  - There is a way to record reasonable adjustments which ensures continuity of service.
  - Information about reasonable adjustments is part of any information sharing agreements between internal and external services.
- > Incorporate Equality Act duties when commissioning services.
- > Ensure contractors or other parties acting on behalf of the local service meet duties under the Equality Act 2010 as part of any service reviews.
- > Retain alternative means of contact for the public when moving to automated or online only service delivery.
- > Place Equality Act duties at the heart of commissioning of any new IT systems relating to customer contact or delivery of services.

# **Local Scrutiny: Questions for Councillors**

We want to share learning from our complaints with locally elected councillors, who have the democratic right to scrutinise the way councils carry out their functions and hold them to account.

Below we have suggested some key questions elected members could ask officers when scrutinising services in their authority:

- > How has the council considered its public sector equality duties when designing automated or online services? What other means of contact are available to the public and how is this publicised?
- > What training does the council provide to staff regarding the council's duties under the Equality Act 2010 and how regularly is this reviewed?
- > How does the council record reasonable adjustments and can it provide statistics on what proportion of people who use its services require reasonable adjustments?
- > How many complaints has the council had in the past year regarding disability discrimination or a failure to make reasonable adjustments?
- > Does the council have good information sharing agreements with other bodies and services which allow it to share information about reasonable adjustments to ensure continuity of service?
- > How does the council regularly review the range of reasonable adjustments it can provide to members of the public and is this information shared with public facing staff?

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