

Local Government &
Social Care
OMBUDSMAN

Equal justice:
**learning lessons from
complaints about
people's human rights**



December 2022

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Ombudsman's foreword



It is easy to think of people's human rights being infringed as an extreme concept. Something associated with war-torn countries or oppressed communities facing political persecution.

But in fact, the idea of having some basic rights as a human being is intrinsic to everyone. It is closer to home and affects every aspect of our day-to-day lives.

Eleanor Roosevelt, who was instrumental in drafting the Universal Declaration of Human Rights, famously said:

"Where, after all, do universal human rights begin? In small places, close to home... the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works."

These basic expectations and rights, therefore, are highly relevant to the complaints we investigate about local services. This report shares the stories from our investigations, in which people's basic rights have been infringed.

Whether that's frustrations about missed bin collections, the mistreatment of a loved one in a care home, to the local sports facility being inaccessible. These stories – and many others

we highlight – are driven by a familiar set of issues: the principle of people being treated with fairness, respect, dignity, on equal terms, and recognised as an individual. We all have a right to expect these basic standards when we use public services.



Where, after all, do universal human rights begin? In small places, close to home... the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works.



We chose to publish this report for a few reasons. The more awareness we can raise about people's basic rights, and how they should be protected and promoted when using public services, the easier it is, for both service users and service providers, to recognise when things have gone wrong.

For councils, we want to instil the importance of placing people’s rights at the heart of their services. It should inform the way they design them from the ground up, as well as play an active part in the day-to-day decisions being made. Where services are outsourced to third-party companies, councils remain ultimately responsible for how they are delivered. They need to retain enough oversight to ensure people’s rights aren’t being compromised.

When things do go wrong, councils should think about whether people’s rights have been affected, ensure that things are put right, and see that lessons are learned for the future.

In demonstrating what good and bad looks like, we have also highlighted some stories in which we did not find the council at fault. We have seen examples where councils have considered carefully how their policies might impact on the local population and thought about people’s rights as part of daily decision-making.

Lastly, we want to help councils understand the standards we expect on this topic. [Our Principles of Good Administrative Practice](#) explains that we expect organisations to get things right, when they run services. A crucial part of achieving this is by making sure the rights of people are considered at all stages of their processes.

However, this should never be a perfunctory or reductive box-ticking exercise – as highlighted in one of the stories in this report. We do not necessarily expect councils to make explicit reference to rights-based legislation in everything they do. Rather, it should be clear to everyone, from looking at the facts of each complaint, that organisations have not infringed people’s rights.

I call on councils to fully commit to a rights-based mindset towards service design and delivery. It will mean fewer issues are likely to escalate to us or the courts, and it ensures that people do not suffer prolonged injustice.

Furthermore, these “close to home” situations that Roosevelt so vividly expressed are exactly the kind of interactions where council services so often touch people’s lives. And as she went on to say, *“these are places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without discrimination.”*



Michael King
Local Government and
Social Care Ombudsman
December 2022

Background

A rights-based Ombudsman

Ombudsman schemes are recognised internationally as playing an important role in protecting the rights of individuals, as well as strengthening democracy, the rule of law, and [standards of good administration](#).

The Local Government and Social Care Ombudsman makes independent, objective and impartial decisions on whether organisations have considered their legal duties when they design services, when they make day-to-day decisions, and when they respond to people's complaints. When we find these duties were neglected, we will assess the impact and recommend how to remedy the situation for individuals as well as others affected. When we find systemic policy or procedural problems caused the fault, we also make recommendations to improve the service for everybody who uses it. In virtually all cases, our recommendations are complied with, without us needing to take further action.

We also use the human stories from our casework to drive improvements to the way organisations are run. This helps prevent similar mistakes from happening again. If we are concerned about an issue being widespread, we will share our findings with the wider regulatory sector – such as the Care Quality Commission, Ofsted, or the Equality and Human Rights Commission – so that individual complaints can help change systems for everyone.

When we look at complaints, we compare the actions of organisations to what the law says, and our standards of good administrative practice. We may refer to the Human Rights Act 1998 if we decide an organisation has neglected people's basic rights and freedoms. We may refer to the Equality Act 2010 where the person at the heart of the complaint has 'protected characteristics', such as a disability. Lastly, we will also take account of protections for specific groups in society – for example, the Armed Forces Covenant which protects armed forces personnel from being unfairly disadvantaged when they access local services.

Human Rights Act

[The Human Rights Act 1998](#) sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the rights set out in the [European Convention on Human Rights](#) (ECHR) into domestic British law. The Human Rights Act came into force in the UK in October 2000. It requires all local service providers (such as local councils, and organisations providing services on their behalf) to respect and protect human rights.

The Act sets out human rights in a series of 'Articles', each dealing with a different right. The Articles are taken from the ECHR and are commonly known as 'the Convention Rights'.

The issues that we see in the complaints made to us most often relate to:

- > the right to private and family life (Article 8)
- > the right to an education (Article 2 of the First Protocol)
- > the right to liberty (Article 5)
- > the right to life (Article 2)
- > freedom of expression (Article 10)
- > freedom from discrimination (Article 14)

Some human rights are absolute, and can never be interfered with, such as the right to life. However, some rights are qualified. This means there are situations when public authorities can interfere with rights, providing it can show it is lawful, necessary and proportionate to do so. An example might be where someone needs to be deprived of their liberty to protect their health, and the safety of others.

Equality Act

The Equality Act came into force on 1 October 2010. It provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. It provides England with a discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

Discrimination

Organisations carrying out public functions cannot discriminate on any of the nine protected characteristics listed in the Equality Act 2010:

- > age
- > disability
- > gender reassignment
- > marriage and civil partnership
- > pregnancy and maternity
- > race
- > religion or belief
- > sex
- > sexual orientation

Public sector equality duty

The public sector equality duty requires all local government bodies (and bodies acting on their behalf) to have due regard to the need to:

- > eliminate unlawful discrimination harassment and victimisation and other conduct prohibited by the Act
- > 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 purpose of the equality duty is to embed equality and good relations into the day-to-day business and decision making of public authorities. It requires equality to be considered in the design of policies and the delivery of services, and for these matters to be kept under review.

Reasonable adjustments for people with disabilities

The reasonable adjustment duty applies to any organisation that carries out a public function. It aims to make sure that a disabled person can use a service as similar as reasonably possible to how a non-disabled person would.

Organisations are under a positive and proactive duty to take steps to remove or prevent obstacles to accessing their service. If the adjustments are reasonable, they must make them.

In May 2022 we published a report – [Equal Access](#) – which shared the learning from our investigations to help councils, and other local services, meet their legal duties to ensure everyone has an equal opportunity to access their services, whatever their needs.

The Armed Forces Act and Covenant

In addition to the Human Rights Act and Equality Act, protections are also afforded to specific groups who might experience unfair barriers in accessing local services. An example is the Armed Forces Act 2021 and Armed Forces Covenant.

All local councils in England are signatories to the Armed Forces Covenant. It promotes the fair treatment of active and former military personnel when accessing public services.

The Armed Forces Act 2021 enshrines parts of the Armed Forces Covenant into law, to ensure that serving and former members of the armed forces, and their families, are able to access housing, education and health services without unfair disadvantage.

Complaint statistics and trends

Our decisions have always implicitly touched on the rights and protections of individuals when they access local services. But in recent years, we have become more explicit when deciding organisations have failed to take account of an individual's rights. Our findings and recommendations increasingly refer to legislation like the Human Rights Act and Equality Act. This is an important step to help inform the public about their legal rights, and to educate organisations about their responsibilities.

To reach this point, we have increased the training and support to our casework staff, to help them make focused enquiries and decisions on cases relating to individuals' rights. We have also improved our IT systems to help us record data and trends about these types of complaints.

In 2021-22 we made 103 decisions in which the Equality Act was a significant aspect in our findings. Most of these cases involved organisations failing to think about making reasonable adjustments to accommodate people with disabilities. We also saw cases about how councils designed their services with a view to eliminating discrimination, and individual stories from people who felt they were treated less favourably because of their race or religion.

We also made 51 decisions linked to the Human Rights Act. Most of these cases involved the right to a private family life, particularly in relation to how adult residential care services are arranged. We also saw cases in which councils had failed to provide education for children; where they deprived individuals of their liberty unfairly; and where they failed to take account of people's right to express themselves freely.

The case studies in the next part of the report illustrate how individuals' rights play an important role in the design and delivery of services, and how they form a crucial consideration when people make complaints.



In 2021-22 we made 103 decisions in which the Equality Act was a significant aspect of our findings...

We also made 51 decisions linked to the Human Rights Act



Common issues and learning points



Designing services that protect people's rights

The public sector equality duty places a proactive duty on councils to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.

In practice, this means councils should weave equality into the fabric of how their services are designed and delivered. Importantly, they should evidence how they have done this and keep policies and practices under review. One way to do this is by conducting Equality Impact Assessments that demonstrate the council's regard to relevant issues.

Councils can discriminate, but only when it considers it a proportionate way of achieving a legitimate aim. In these circumstances, we expect to see a record of the justification. The council should ask itself:

- > Who does this policy or service impact?
- > What is the legitimate aim of the policy?
- > Will any group be advantaged or disadvantaged?

In either case, is the proposed approach the most proportionate way of achieving the aim?

If the council has properly considered a matter, taking into account all relevant information, we are unlikely to find fault.

The public sector equality duty applies to all council services. While in some areas, like children's social services, it is often clearer that decisions will have equality implications, councils must have similar regard to their duty in areas where this is not so immediately apparent. Jamal's story below highlights this point.

Designing services that protect people's rights



Laura's story: Not having regard to the public sector equality duty

Case reference: [21 001 407](#)

Laura is a single mother of four children, one of whom was a newborn. She moved into the council's area after fleeing domestic abuse.

Laura was affected by the benefit cap, which meant she didn't have enough income to pay her rent. For around nine months, the council helped her by providing discretionary housing payments (DHP) to meet the shortfall.

Laura applied for help again. She was pregnant and caring for her baby, still under one year old, so she could not work. The council refused to help Laura. It said she should look for work.

What we found

The council did not have a written policy for discretionary housing payments. It told us it made decisions about applications in line with the government guidance on DHPs.

The council also said it had been affected by a reduction in funding for DHPs along with an increased demand, which led to a change in practice.

The council had not done an equality impact assessment before changing its practice on DHPs. We asked it how it had assessed any potential impact of the change on people with protected characteristics, such as pregnancy. It had not done any assessment.

We said the council failed to have due regard to its public sector equality duty because it could not prove it had considered the impact of the changes on vulnerable groups.

Putting it right

The council agreed to apologise to Laura, pay her a token amount for her distress and uncertainty, and make a new decision on her DHP application.

To improve the council's services, we recommended it produce written guidance for its staff on handling DHP applications, informed by an equality impact assessment.

Designing services that protect people's rights



Jon's story: Balancing rights and risk

Case reference: [21 010 672](#)

Jon complained about the council's decision to require cyclists to dismount on certain sections of a trail.

Jon has disabilities which mean walking is difficult and painful. Since he cannot dismount to walk, the council's decision effectively prevented him using the whole trail.

The council required cyclists to dismount on short stretches of the trail in its busiest areas. The restriction applies between 10am and 6pm from May to September. Alternative routes via the road are available to avoid the restricted areas.

What we found

We decided to close the complaint after an initial investigation because we were unlikely to find fault. We could see the council had assessed the risk to all users of the trail and implemented a scheme to minimise the risk with the least interference to cyclists.

The scheme had a legitimate aim: reducing risk of accidents to users of the trail.

A particular group was disadvantaged: cyclists who would struggle or be unable to dismount.

But the council had ensured the restriction was proportionate by only implementing it at the busiest times and in the busiest places.

It had therefore given due regard to its public sector equality duty in making its decision.

Designing services that protect people's rights



Jamal's story:

Case reference: [20 013 552](#)

Jamal has a disability which affects his manual dexterity. He lives near a council-owned field which is open to the public. Jamal said he uses the field regularly for walks and exercise. A local football club leases some of the field as a football pitch.

The football club told the council about its plans to put up fences to protect the pitch, which included a gate to access it. The council agreed, subject to a condition that the club were "not to prevent the general public having access to the playing field except if they prevent or interfere with any sporting activities carried out by the club."

Jamal complained to the council. He said the gate prevented him accessing the field because his disability meant he couldn't open the gate independently. In response, the council said it would ask the football club to pin the gate open when the pitch was not in use.

Jamal said the club was not leaving the gate open and so he, and any others with similar disabilities, could not access the pitch.

What we found

The whole field, including the football pitch, is open for the public to enjoy. Therefore, the council's public sector equality duty meant it had to have due regard for how all members of the public, including those with disabilities, can access the football pitch (apart from when being used for matches) even though it is a small proportion of the field.

We said the council failed to take account of how the gate might impact on people with disabilities who wanted to use the pitch, so it had not had due regard to its public sector equality duty. The fault was also likely to have caused others with similar disabilities an injustice.

Putting it right

The council agreed to apologise to Jamal and meet him to discuss how it can meet his needs to access the pitch.

It also agreed to work with the football club to carry out any work necessary to the gate to ensure it met its public sector equality duty.

Common issues and learning points

Maintaining responsibility for commissioned services

In many situations local services are provided on behalf of councils by third-party organisations.

Councils can sub-contract out their services, but not their responsibility for them.

They remain ultimately responsible for services commissioned to another organisation to deliver on their behalf. Councils should maintain sufficient oversight of the actions of third-party contractors to ensure the council is meeting its duties.



Adam's story: Commissioned care providers giving unsafe treatment
Case reference: [21 013 987](#)

Adam has a learning disability which affects his ability to make certain decisions for himself. He lives at a residential care home run by a care provider, but commissioned and funded by the local council.

Adam's parents complained that he was excessively and unnecessarily given sleeping tablets. In responding to their initial concerns, the care provider said that Adam's GP had prescribed the medication to take 'when needed', but it had directed its staff to give it every other night to sedate him. This lasted for seven months.

What we found

We found Adam received unfavourable and unsafe treatment, which was because of his learning disabilities. We found this treatment impacted on his right to a private life (Articles 14 and 8 of the Human Rights Act). The care home failed to formally apologise to Adam for over 12 months after the events, and its communication with the family lacked empathy or contrition. We therefore found the council had ultimately failed to take account of Adam's human rights when it provided this care.

Putting it right

We also found evidence of good practice. When the council became aware of the issues, it started a safeguarding investigation into the care home, and contacted the Care Quality Commission to ensure that things changed for the better. This led to improvements in the way the care home treated adults with disabilities, and in the way it responded to complaints.

The council also made positive changes to the way it monitored its third-party contractors. This demonstrated a council proactively using complaints to improve its services for others. In addition to these steps, the council agreed to make a payment to the family for the avoidable distress they were caused.

Maintaining responsibility for commissioned services



Diane's story: Poor oversight of third-party contractor

Case reference: [20 002 492](#)

Diane complained to the council about new large litter bins it had installed across its area. She said the bins were not a suitable height for disabled people, small adults and children and that a degree of strength was needed to lift the lids. Diane said the bins breached disability discrimination legislation and they did not meet government guidance.

What we found

The council said the decision to install the large bins was taken around four years ago and was managed by the company who at the time held the contract for waste and recycling. The council therefore had no information about how the decision was made. This called into question whether the council, or its contractors, had properly considered their public sector equality and reasonable adjustment duties.

Putting it right

The council agreed to apologise to Diane and publish its Local Environmental Quality Plan. This set out its approach to providing litter disposal infrastructure, including how it would have proper regard to its public sector equality and reasonable adjustment duties.

Common issues and learning points

Avoiding a ‘box ticking’ approach

We expect councils to be able to show us how they have considered their equality duties. However, we are likely to be critical if this is simply a ‘box ticking’ approach. Well informed

consideration of duties will include weighing up the circumstances of individual cases, not making routine decisions solely as a paper exercise.



David’s story: Default approach to considering equality duties

Case reference: [20 010 205](#)

David complained to the council about how it considered a reserved matters planning application for a housing development on land near his home.

Amongst other issues, David complained the council’s report on the application did not include any reference to how it considered its public sector equality duty. In response, the council said it had not included its standard paragraph about this by mistake.

The council said it always took equality issues into account when considering planning applications but did not always make records to reflect this, if no specific issue is raised during consideration.

In this case, it said no issues were raised that would affect groups with protected characteristics as identified by the Equality Act.

What we found

Local objections to the scheme referred to the types of houses proposed on the development. They said locally it was an aging population and that bungalows should be included. They also pointed out the site was on a steep hill and there were no properties suitable for the aged and infirm.

The council’s response, that it was an administrative error not to include the standard paragraph on considering equality duties, suggests it is included as a box-ticking exercise. The local objections should have prompted the council to specifically consider them in terms of its equality duties. The consideration should be active and not an administrative formality.

While we did not uphold other areas of David’s complaint, we said there was fault in how the council considered its equality duties.

Common issues and learning points

Day-to-day decision making

Councils' consideration of people's rights do not end with service and policy design. Day-to-day decisions on how services are provided could engage individual's rights at any time. Councils should be alert to when this might happen.

Where a decision involves interfering with a qualified right – such as a right to a family life – councils should be able to demonstrate due regard for this in their decision-making process.

In this section, we have included stories that show how failing to consider people's rights can lead to injustice in a variety of service areas. We have also identified examples where we did not find fault – to help councils recognise 'what good looks like' when reflecting on their own service delivery.



Abdul's story: Insufficient regard for right to a family life

Case reference: [20 012 225](#)

Abdul lived in a one bedroom-flat with his wife and five children. He approached the council for help when their landlord asked them to leave.

The council decided Abdul's family was not threatened with homelessness because the notice asking them to leave was invalid. It said their accommodation was reasonable to continue to occupy.

After receiving another eviction notice soon after, Abdul went back to the council and it accepted a duty to help prevent him and his family becoming homeless. Its record said the family was not severely overcrowded.

The council made a number of attempts to locate a four-bedroom rental property for Abdul's family, but they remained in their existing flat for more than a year. When Abdul complained to the council, it eventually provided interim accommodation and accepted a main housing duty.

What we found

The council accepted it had failed to identify the family's flat was unreasonable to continue to occupy, due to overcrowding, when Abdul first approached it. It repeated this failure a second time. As a result, the council failed to provide suitable accommodation for more than a year.

We found the council failed to consider whether the family's housing conditions enabled them to enjoy a family life and home, under Article 8 of the Human Rights Act 1998. Poor processes, faulty decision making, and inadequate record keeping contributed to this undue regard.

Putting it right

The council agreed to apologise to Abdul and pay him £6,000 for the impact of living in overcrowded conditions for so long.

It also agreed to demonstrate how it would ensure housing staff consider relevant rights of applicants under the Human Rights Act 1998, as part of its duties under housing legislation.

We also asked for future updates, to reassure us that improvements already planned to the council's housing management systems would fulfil the aim of avoiding similar issues from reoccurring.

Day-to-day decision making



George's story: Qualified rights in care settings

Case reference: [20 011 478](#)

George complained about a council-funded care home suspending visits to his mother, Molly, after an outbreak of COVID-19. She is a long-term resident, in her 90s and has dementia.

The period covered was October 2020 to February 2021, when government guidance was clear that care homes should decide on visiting arrangements, having regard to the guidance and advice from Public Health England and local public health teams.

The guidance said visits needed to stop if there was an outbreak, unless they were for residents who were at the end of their life.

George believed he should be allowed to visit his mother continually because her dementia is a life-limiting illness.

What we found

We found the care home did not consider Molly to be at the end of her life initially. This view was supported by her GP. When the GP's view changed in February 2021, the care home allowed visits.

We had no grounds to criticise that decision because it was in line with guidance. We also found the case notes and risk assessments showed the council and the care home had regard to the impact of stopping visits on Molly.

We were satisfied the care home had considered the family's right to a family life, and that it had provided justified reasons for interfering with this right. We did not uphold the complaint.

Day-to-day decision making



Paula and Henry's story: Interfering with childcare arrangements

Case reference: [21 000 997](#)

Henry and his wife, Paula, were separated and had three children. The council carried out a child protection investigation following concerns raised by the police about Paula. The council decided Paula's contact with her children should be supervised. Henry then decided she could not have direct contact. He began legal action.

Paula subsequently collected her children from school and told Henry she had exercised her parental responsibility to take them. The council told Henry that because both parents had parental responsibility, it could not prevent Paula from doing this.

A council social worker then visited the children and found no immediate safeguarding concerns. However, the council had not resolved the earlier concerns it had about her contact with the children.

Henry told the social worker he intended to collect the children the next day. The social worker warned him not to do this and said there would be child protection proceedings against him if he did. The social worker recommended shared residency between him and Paula, but Henry did not want this.

What we found

We found the council inappropriately interfered in family affairs, without justification. The council had no evidence Henry posed a risk of harm to his children, so it had no grounds to threaten him with child protection action.

We said the council was acting over and above its legal powers by trying to impose shared custody arrangements on Henry. In the absence of any safeguarding issues, it is for the courts to decide contact and residency decisions where parents cannot agree – not councils.

We considered the council's interference with private arrangements was a failure to have regard to the right to a family and private life.

Putting it right

The council agreed to apologise to Henry and pay him £1,000 to recognise the distress it caused him.

Day-to-day decision making



Shayan's story: The right to education

Case reference: [21 003 573](#)

Shayan complained the council had refused to provide his child, Zara, with suitable transport between school and the overnight respite care she sometimes attended, which helped reduce the risk of a family breakdown.

Zara suffered an increase in epileptic seizures. Shayan said the council refused to give emergency rescue medicine when she was travelling on school transport and this was against human rights law. He said Zara's health was at risk if she did not have her rescue medicine when needed and that as a result he could not work because he had to take her to and from school.

The council told us it could not recruit a personal assistant who was willing to administer the medicine and existing staff were not willing to be trained to do it.

What we found

The council said the law did not require it to provide a trained personal assistant and it only needed to make 'reasonable arrangements' to transport Zara. However, statutory guidance says councils have a duty to make necessary arrangements to facilitate attendance at school for eligible children. It failed to do so in this case.

We also found the council did not consider Zara's right to education when it failed to provide suitable transport.

Putting it right

The council agreed to apologise to Shayan and pay a token amount for taking Zara to school when the council should have provided suitable transport. It would review Zara's transport arrangements.

The council also agreed to review other disabled children's cases to ensure their travel arrangements are in line with statutory guidance, and to use this case in its next round of staff training. After our investigation ended, Zara started receiving support from a trained personal assistant to help her get to school safely.

Day-to-day decision making



Jane's story: Failure to provide person-centred care

Case reference: [19 014 556](#)

Jane had medical conditions which meant she required help going to the toilet at night. She complained the council failed to properly assess her needs, which meant her care and support plan was inadequate.

The council told her she did not require overnight support, and her needs could be met by using incontinence products.

What we found

We found the council's assessment of Jane's needs was based on out-of-date information that did not reflect her current circumstances. The council had failed to act on concerns raised by Jane and her partner about the suitability of incontinence products, and the need for additional social care support at night. As a result of the faults, Jane had been left saturated in urine and faeces overnight, until her carers arrived in the morning.

We found the council's lack of a proper care assessment showed it had not taken account of Jane's rights under Article 8 of the Human Rights Act, which meant her dignity and autonomy had been neglected.

Putting it right

The council agreed to apologise, make a symbolic payment for the distress Jane suffered and cover the costs of soiled mattresses and bedding. The council also agreed to arrange training for staff to improve the way it carried out assessments of people's social care needs. Following our decision, the council commissioned an independent review of its adult social care processes and complaints procedures to avoid similar mistakes from happening again.

Common issues and learning points

Rights for service personnel

As part of the Armed Forces Covenant and Act, councils should think about whether they need to make exceptions to their procedures and policies, to ensure that serving and former military

personnel are treated fairly and respectfully in their local communities.



Ralph's story: Support for a military charity

Case reference: [19 013 780](#)

Ralph is an ex-serviceman. He is registered blind and regularly holds meetings at his home for other disabled veterans.

Ralph applied for a disabled parking bay. He explained he did not have a car registered at his address but he is part of a blind veterans' charity and has a minibus pick him up on a regular basis which sometimes stays when he holds the meeting at his house. He said he has a driveway, but it is not large enough for the minibus.

The council rejected Ralph's application. It explained the main reason was because the vehicle was not registered at the property, which was an essential factor under the council's policy.

What we found

We found the council had acted in accordance with its published policy on disabled parking bays when it refused the application. However, we found the council had been made aware of Ralph's status as a former serviceman, and had failed to consider its commitment under the Armed Forces Covenant. This says that in some cases, special treatment for service personnel might be necessary to achieve fair treatment.

Putting it right

The council agreed to reconsider the disabled parking bay application, taking account of Ralph's veteran status, and the Armed Forces Covenant, to consider if it should make an exception to its normal policies.

The council also agreed to ensure that its staff were aware of the Armed Forces Covenant, and how it should be considered when they make decisions.

Common issues and learning points

Complaint Handling

Councils should consider people's rights as part of dealing with complaints. A rights-based approach to complaint handling means putting the complainant and their individual circumstances at the centre of the process.

We do not expect members of the public to frame their complaints in the language of human rights – councils should have the ability to identify when a complaint is connected to a rights-based issue without being told.

We only receive a small fraction of the total complaints made about local services. So, unless complaint handling staff are suitably trained on recognising when and how to consider people's basic rights, many people could be having them withheld.

In the same way some people need extra help to access council services, some will need extra help communicating with councils to allow them to give feedback or raise a complaint. We expect

We do not expect members of the public to frame their complaints in the language of human rights – councils should have the ability to identify when a complaint is connected to a rights-based issue without being told

councils to show how they have thought about the barriers people face in making complaints and explore ways to remove them.

We have long extolled the virtues of organisations that use complaints as a source of learning. Considering whether individuals' rights have been affected can help councils reflect and improve service design and delivery across the whole organisation by, for example, identifying training needs or sharing examples of good practice.



Beth's story: Failing to provide additional support when making complaints Case reference: [21 005 266](#)

Beth complained that the council regularly failed to carry out her assisted bin collections. Assisted collections are a service for older or impaired residents who cannot move their own bins in and out for collection. Beth said the crew regularly failed to return her bin to the correct place. When the bin is left blocking her gate or the pathway, she cannot leave her property. This caused her to miss important medical appointments.

Beth also complained the council had failed in its Equality Act duty to make reasonable adjustments to how it communicates with her. The council asked her to email photographs each time there was a problem with her assisted collection. It said it would consider the matter closed if she didn't make written reports with photographic evidence. Beth told the council that due to her disability, she could not take pictures and email the council as requested.

What we found

The council acknowledged fault in how it delivered its assisted collection service for Beth. We found the council failed to take Beth's needs into account when it insisted she make her complaint in writing and that she provide photographs. This caused Beth unnecessary distress, and placed her at a substantial disadvantage to someone without a disability who wanted to pursue a complaint.

Putting it right

The council agreed to apologise to Beth and pay her a token amount for the distress it caused. It would monitor Beth's collections for three months. It also agreed to provide evidence of the steps it had taken to improve its record keeping and the way it made its complaints process accessible for people with disabilities.

Complaint Handling



Hamid's story: Not listening to the complaint

Case reference: [20 003 111](#)

Hamid's children lived with his ex-partner. He had reported to the police that his child had told him their mother's partner had hit them. The police informed the council.

Hamid complained the council failed to notify him when it started to investigate the child protection concerns. As part of his complaint, he said the council had discriminated against him.

In response, the council assured Hamid that it had not acted discriminatingly and referred to its procedures to ensure both parents are contacted as part of an assessment.

What we found

We found the council failed to ask Hamid what type of discrimination he felt had occurred, and how it had affected him. This was wrong. The council should have sought to fully understand Hamid's views about discrimination and obtain any evidence he had to support his claim.

Hamid later clarified to them his complaint related to racial bias. However, the council refused to investigate the matter due to other legal proceedings. We criticised the council for failing to explain why the court action meant that it could not accept the complaint about racial bias.

Putting it right

We found Hamid was caused avoidable distress and frustration by the council's failure to seek clarification about his concerns and dismiss his complaint.

The council agreed to pay Hamid a token amount for the avoidable distress, and to escalate his complaint to the next stage of the children's statutory complaints procedure. It also reminded staff about the correct procedures and timescales in responding to complaints.

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:

- When policies are designed, **think about what steps are in place to ensure that meaningful consideration is given to individuals' rights**, and the impact of policies on people with protected characteristics
- Where possible, **publish Equality Impact Assessments (or similar decision-making tools) online** to help promote transparency of your decision-making and local accountability
- **Invest in training for officers and members** so they are aware of the types of rights-based issues that they will encounter in their roles
- Take steps to **ensure that officers record clear reasons** when it is deemed necessary to interfere with an individual's rights
- **Proactively think about people's rights** when looking at complaints and concerns, irrespective of whether they are explicitly mentioned
- Take steps to **guard against standardised wording or box-ticking exercises**, which can reduce rights-based considerations into a perfunctory exercise

Local Scrutiny: Questions for Councillors



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

Here are some suggested key questions that elected members could ask officers when scrutinising services in their authority:

- ? Is it clear how people's basic rights are protected and promoted by your policies?
- ? Does your council make use of resources and tools published by the [Equality & Human Rights Commission](#), such as the [Measurement framework for equality and human rights](#)?
- ? Does your council scrutinise the outcomes of complaints to see if the rights of individuals, or groups of people with protected characteristics, have been affected?
- ? Where things have gone wrong, what effective mechanisms does your council have to embed learning from complaints?

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