

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into complaints against
Bristol City Council
(reference numbers: 20 007 914 and 20 007 915)**

30 March 2021

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr X	The complainant
Mr Y	The complainant

Report summary

We are issuing this report because the Council failed to provide evidence of compliance with recommendations we made in two cases.

Environmental Services and Public Protection and Regulation – refuse and recycling (20 007 915)

In January 2020, the Council agreed to apologise to Mr X for failing to resolve his issues with refuse collections, monitor the collections at his property for at least two months and review its missed collections policy ([reference 19 004 573](#)).

Environmental Services and Public Protection and Regulation – noise (20 007 914)

In March 2020, the Council agreed to apologise to Mr Y for the injustice caused by the Council's poor communications about its investigation into his noise nuisance complaint, remind officers of the need to store case-specific files so any member of the team can access them, review noise nuisance cases every four weeks and ensure the deadlines for responding to stage two complaints are met ([reference 19 002 308](#)).

Finding

Fault found causing injustice and recommendations made.

Recommendations

The Council must consider the report and confirm the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet, or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

To remedy the injustice caused to Mr X and Mr Y, within three months of the date of this report the Council should:

- write to both Mr X and Mr Y to apologise for failing to carry out the action it agreed in our final decisions in January and March 2020;
- pay Mr X and Mr Y £100 each to recognise the frustration and uncertainty caused by its failure to comply with the agreed action following our final decisions in January and March 2020;
- review its revised arrangements for monitoring complaints and ensuring compliance with any future recommendations we make; and
- ensure its waste collections monitoring arrangements are robust to ensure it can provide evidence of monitoring in future cases.

In addition, the Council still needs to satisfy us on an original recommendation we made in Mr X's case which is outstanding. This is to update and send us a copy of its written missed collections policy.

We welcome that the Council has accepted our recommendations.

The complaints

Complaint 1 - Mr X

1. Mr X complained to us in 2019 about repeated missed communal bin collections from his block of flats for three years. The Council owns the Bristol Waste Company (BWC) who carry out refuse collections on its behalf. When a council commissions another organisation to provide services on its behalf it remains responsible for those services and for the actions of the organisation providing them.
2. Full details of the case can be found in the published decision. But in summary we found BWC's failure to collect refuse from Mr X's block of flats was fault which the Council was responsible for. This caused Mr X a significant injustice as he had to go to the time and trouble of making reports and complaints. Mr X also had to spend time cleaning up the overflowing bins area, as well as repeatedly contacting the Council to report problems without a permanent solution being found.
3. The Council put in place some remedies during Mr X's complaint to brief staff, ensure proper supervision of the issue, and provide Mr X with contact numbers. But we considered the Council should have taken other measures to ensure it maintained a satisfactory service level at Mr X's block of flats and to prevent similar failings happening to others. So, we completed our investigation in January 2020 and made recommendations to the Council. The Council agreed that by 8 February 2020 it would:
 - write to Mr X to sincerely apologise for the injustice caused by its failure to properly resolve the issues reported by him sooner; and
 - instruct BWC to monitor collections at Mr X's block of flats for at least two months, to make sure they happened without failure.
4. The Council agreed by 8 April 2020 it would:
 - liaise with BWC to review the missed collections policy. This should be with a view to creating an internal reporting mechanism to highlight when a certain number of missed collections are reported within a specific period at the same location. The Council should also explain what action it will take. The number of missed collections to trigger this and time period will be a matter of judgement for the Council and BWC; and
 - write to update us once the Council completed these actions.
5. The Council failed to comply with the recommendations within the timescales we asked it to. This has caused Mr X additional frustration.

Complaint 2 - Mr Y

6. Mr Y complained to us in 2019. Full details can be found in the published decision. In summary we found that the Council had been slow to respond to concerns he raised about noise nuisance from a business near his home. He stated he had been reporting issues since February 2018, but the Council did not take enforcement action and its communication was poor. Mr Y also complained about the Council's response to his complaint which he considered was late and contained errors. Mr Y said the noise affected his sleep and enjoyment of his home, and he had been put to the inconvenience of chasing officers and making complaints.

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7. We upheld Mr Y's complaint about the Council's handling of his noise nuisance complaint. We found the Council's communication and record keeping was poor. This caused Mr Y uncertainty due to not knowing how the Council was addressing his concerns and frustration in having to contact his local councillor and make complaints to seek resolution. We found the Council was not at fault for deciding the noise was not a statutory nuisance.
 8. We completed our investigation in March 2020. The Council agreed to take the following actions.
 - Apologise to Mr Y for the injustice caused by the faults identified in the investigation.
 - Provide evidence it had reminded officers of the need to store case-specific files so any member of the team can access them.
 - Remind officers of the need to review noise nuisance cases every four weeks. Officers should communicate the outcome of each review to the complainant in each case. If the Council decided to close a case it should communicate its decision in writing.
 - Remind officers replying to complaints at stage two of the deadline for responding.
 9. The Council agreed to carry out these actions within one month of the final decision.
 10. The Council failed to comply with the recommendations within the timescales we asked it to. This has caused Mr Y additional frustration.

The Ombudsman's role and powers

11. We investigate complaints about 'maladministration' and 'service failure'. In this report, we 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. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

How we considered this complaint

12. We produced this report after the Council failed to carry out the recommendations we made in our final decisions on Mr X's complaint in January 2020 and Mr Y's complaint in March 2020. We took into account the impact of the COVID-19 lockdown and we were flexible in allowing additional time to evidence compliance given the unprecedented events. We also considered how the Council responded to our requests for updates on both cases.
13. We gave the complainants and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

What happened after our decision on Mr X's previous complaint

14. We sent an email to the Council in February 2020 requesting an update on the first part of the agreed remedy as Mr X had confirmed he had not received an

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- apology. We asked for a response by the end of February 2020. We did not receive a reply.
15. We sent a further email at the end of February 2020 but again we did not receive a reply. We wrote to the Chief Executive in March 2020. We asked for evidence of compliance by 17 March 2020 and advised we would consider further action if we did not receive a response.
 16. The Council responded to indicate BWC had said it would carry out the required actions but had not sent confirmation it had done so. The Council said it would keep trying to get the information.
 17. The Council sent an email the following day apologising for the delay and sending some information. The documents from the Council included internal emails between its complaints service and BWC showing it had overlooked sending the final decision on Mr X's case to BWC. The Council belatedly asked BWC to take the required actions. BWC said it had placed Mr X's block of flats on 'the hotspot list.' It also confirmed it had been monitoring collections from Mr X's block of flats since the draft decision on the complaint was issued in December 2020. The Council included a copy of the apology letter to Mr X but failed to provide any evidence of the monitoring that BWC said it had done.
 18. We acknowledged the update on the remedy. We asked the Council for a copy of the monitoring report and details of the outstanding remedy - to liaise with BWC and review the missed collections policy.
 19. We temporarily suspended casework in March 2020 because of the COVID-19 lockdown and waited before contacting the Council again.
 20. We resumed contact in early July 2020 and asked for an update. We extended the date for the Council to provide evidence of compliance with all the recommendations until the end of July 2020. We did not receive a response so sent a further email in August 2020 asking for a reply.
 21. We wrote to the Chief Executive at the end of August 2020 advising we were still waiting for confirmation and evidence all the agreed actions had been taken. We reminded the Council of the outstanding actions including evidence of BWC monitoring collections and the review of the missed collections policy. We told the Council we would consider further action if it did not send us the information by September 2020. We did not receive a reply.
 22. We wrote to the Chief Executive again in October 2020 expressing concern at the Council's failure to evidence full compliance with the recommendations. We requested the Council provided the outstanding information by 16 October 2020 otherwise we confirmed we would register a new complaint for non-compliance.
 23. The Council responded and advised it had no formal arrangement in place for missed collections. But it explained it had a new waste management system which automatically generated an email to senior staff alerting when a property had a number of missed collections.
 24. We considered the Council's comments but concluded they did not satisfy the recommendations. The Council did not provide any evidence of monitoring of collections at Mr X's block of flats. It also failed to provide details of the policy review, despite having previously agreed to do this.
 25. We wrote to the Chief Executive in November 2020 expressing disappointment with the Council's failure to evidence full compliance with the recommendations despite numerous requests and opportunities for this to be provided. We

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- registered a new complaint against the Council about its failure to comply. We advised Mr X of our action.
26. The Council replied apologising for not responding. It said it was working on the case as a priority and would confirm the action taken. We informed the Council that we recorded the remedy as not complete or satisfied and would be investigating the failure to comply as a new complaint.
27. The Council emailed us two days later to confirm the actions it had taken on the outstanding points.
- BWC provided photographs and videos showing the bins had been emptied through February 2020. It said a supervisor had made handwritten notes in the supervisor diary to confirm they followed this up in March and April 2020.
 - There were no subsequent reports of a missed collection from Mr X's block of flats until October 2020 when the collection lorry broke down. This was a one-off incident and has been addressed. The new waste management systems enabled BWC to inform a person reporting a missed collection of such an incident. The system explained why and gave a time frame for the waste to be collected.
 - It provided evidence of an IT transformation project to improve residents reporting missed collections and allow better reporting. The Council confirmed the system was now working and residents could report missed collections online.
 - The Council and BWC implemented several improvements for missed collection reporting. This included the possibility of creating a reporting mechanism to highlight when several missed collections are reported in a specific period at the same location. But this had not been written into a formal policy document.
 - The Council and BWC discussed this further during a contract meeting in October 2020. It confirmed BWC were developing the system to identify persistent missed collections and would send the process through when finalised. To provide further reassurances BWC were reporting the number of missed collections each month as part of the contract meeting.
28. Whilst we welcomed the information provided, we remained of the view this could and should have been actioned and evidenced much sooner. We make service improvement recommendations alongside those to remedy individual injustice to try to prevent further recurrence of issues and problems and reduce the potential for others to be affected in a similar way. The failure to review the policy as agreed, left other users vulnerable to the issues Mr X had experienced for a prolonged period. Despite constantly chasing and reminding the Council of the need for compliance, it did not send further information until after a new complaint had been registered.
29. We consider the information provided by the Council to show the monitoring of Mr X's block of flats is inadequate. This is because the photographs only show three weeks of collections and there was no evidence of the supervisor's diary referred to by the Council. However, we do not intend to pursue evidence of monitoring any further as there are indications the collections have improved. But the Council should make sure its monitoring arrangements are robust and that it can provide evidence of it in future cases.

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30. The Council told us in November 2020 it was developing the missed collection policy and procedure. While we are pleased to note this action, it has taken longer than the originally agreed remedy. We have not received notification it has been completed. The Council should update us and send us a copy of the revised policy.

What happened after our decision on Mr Y's previous complaint

31. The Council was due to carry out the agreed action during April 2020. However, as the deadline fell around the time that we temporarily suspended casework because of the COVID-19 lockdown, we waited before contacting the Council.
32. We sent an email to the Council at the beginning of July 2020 asking it to provide evidence it had carried out the agreed actions by August 2020. We did not receive a reply.
33. We wrote to the Chief Executive at the end of August 2020 and said we were still waiting for confirmation the Council had complied with the recommendations. We advised of further action if we did not receive evidence of compliance by September 2020. We did not receive a response.
34. We wrote a further letter to the Chief Executive in October 2020 as a final chaser asking for evidence of compliance by the end of the month. We told the Council we would register a new complaint against it for failing to comply with the remedy if it did not respond. We did not receive a reply.
35. We wrote to the Chief Executive in November 2020 expressing disappointment it had failed to provide evidence of compliance with the recommendations made in March 2020 despite numerous reminders. We advised we had registered a new complaint against the Council for non-compliance. We advised Mr Y of our actions.
36. The Council replied apologising for its lack of response and advised it would now take action. We confirmed we had already registered a new complaint and would be pursuing it further.
37. The Council advised us it had taken the following action.
- It had written and hand delivered a letter to Mr Y that day apologising to him in line with our recommendations made in March 2020.
 - In April and November 2020, a senior officer from the Neighbourhood Enforcement team (NET) met with officers dealing with noise cases to run through the Council's Noise Nuisance Procedures and to identify any linked processes that needed further documentation to ensure each officer was following the same process. The Council advised it continued to be a work in progress but now only three officers in NET dealt with noise cases. The Council considers this has developed specialist knowledge and consistency in record keeping and response. It says all officers have full understanding of the case management systems used for noise cases and regular case reviews check quality of record keeping and response.
 - Officers set auto reminders on the case management system to trigger regular reviews and that the outcomes of reviews are communicated to the person reporting an issue. The Council says it has revised standard letters to ensure people who report issues are clear when and why a case will be closed.

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- The Council has rolled out a new case management system to all officers dealing with complaints and this provides daily email notifications of upcoming and overdue response deadlines. Managers review performance at all levels.
38. We consider the Council has now complied with the original remedy in Mr Y's case.

Council action since we registered the new complaints

39. The Council wrote to us in November 2020 to explain it recognised it had an issue with "case handling resource problems". So, it carried out an independent internal investigation resulting in recommendations for improvement being made to the Chief Executive. The Council says actions have been implemented in most cases from October 2020. These actions are:
- an increase in staff resources dealing with complaints;
 - the Complaints Manager will monitor more closely Ombudsman cases with a robust system dashboard used daily, addressing issues with specific cases where necessary;
 - the Complaints Manager will summarise performance of Ombudsman cases weekly and send to senior management;
 - the Complaints Manager will hold a daily catch-up meeting with all Complaint Coordinators to discuss ongoing and upcoming cases; and
 - improved objectives will be given to Complaint Coordinators and the Complaints Manager around better handling of Ombudsman cases, specifically meeting all deadlines with improved communication over cases where appropriate.
40. The Council stated, "we have taken the matter very seriously and are 100% committed to learning from our experience and doing things much better going forward."

Conclusion

41. The Council's failure to implement agreed remedies on two separate cases represents a serious failure in its corporate governance arrangements and oversight. When a council agrees to take the action we have recommended, it should be accountable and make every effort to comply. If it were not for the compliance checking that we carry out it seems likely that these and potentially other cases would be allowed to drift without honouring the agreed remedy. This is a serious breach of trust, which risks undermining public confidence in the Council and in the current consensual system of administrative justice through the Ombudsman.
42. Although it is positive to see that the Council is already putting in place improvements to its complaints handling, it is clear these have largely been triggered by our intervention and decision to register new complaints because of non-compliance.
43. The Council failed to apologise to Mr X until March 2020 and then to carry out the rest of the agreed remedy until we advised we were registering a new complaint. The Council also failed to apologise to Mr Y as it agreed to do following our final decision on his previous complaint in March 2020 until we advised we would be registering a new complaint. The Council is at fault in both cases.
44. We consider the Council's non-compliance with an agreed remedy has caused Mr X and Mr Y further frustration and uncertainty, especially as part of the upheld

complaints was about the Council's failure to respond to both in the past. We have recommended a financial payment for the additional injustice the Council's non-compliance has caused Mr X and Mr Y. The Council's failure to comply with the wider service improvement recommendations we made in each case increased the potential for other residents to experience similar issues and problems.

Recommendations

45. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet, or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
46. We welcome that the Council has accepted our recommendations and agreed to:
- write to both Mr X and Mr Y to apologise for failing to carry out the action it agreed in our final decisions in January and March 2020;
 - pay Mr X and Mr Y £100 each to recognise the frustration and uncertainty caused by its failure to comply with the agreed action following our final decisions in January and March 2020;
 - review its revised arrangements for monitoring complaints and ensuring compliance with any future recommendations we make; and
 - ensure its waste collections monitoring arrangements are robust so it can provide evidence of monitoring in future cases.

In addition, the Council still needs to satisfy us on an original recommendation we made in Mr X's case which is outstanding. This is to update and send us a copy of its written missed collections policy.

Final decision

47. The Council was at fault for not complying with agreed remedies in the two complaints. This fault caused Mr X and Mr Y further frustration and uncertainty. To remedy that injustice the Council will take the action identified in paragraph 46.