

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

**Investigation into a complaint about
Ribble Valley Borough Council
(reference number: 22 000 924)**

14 July 2022

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

Report summary

Environmental Services, Public Protection & Regulation

The Equality Act 2010 requires those who provide services to the public to consider making reasonable adjustments for individuals with disabilities.

Mr X has a disability, and in an investigation we completed in April 2021 we found fault in the way the Council dealt with him.

We recommended a remedy because the Council had no system in place to show it:

- asked individuals about whether reasonable adjustments for disabilities were needed to allow access to its services;
- considered requests for adjustments and decided what changes would be reasonable for it to make;
- kept records of its decisions, so that its officers are aware of adjustments they needed to make.

We found fault and the Council agreed to carry out our recommendations, but it did not carry out all of them. The Council did eventually provide us with details of its new policy, but this took more than a year to arrive and only happened after frequent and numerous reminders. Despite further reminders, the Council has not yet provided evidence that it has complied with the remaining recommendations. We still have no evidence to show:

- the Council has a system to keep records of its decisions on reasonable adjustments; and
- its officers are aware of the Council's legal obligations and act in accordance with them.

As a result, we have decided to use our powers to issue this public interest report for the Council's non-compliance with our recommendations.

Finding

There is fault because the Council did not provide evidence that it had carried out all the recommendations it agreed with the Ombudsman in April 2021 (reference: 20011938).

There is also fault in unreasonable delay by the Council in providing us with details of its new policy on reasonable adjustments for disabled service users.

The faults we found are likely to cause significant injustice to a vulnerable section of the public. To avoid further injustice, the Council should act without further delay.

Recommendations

Within three months from the date of this report, the Council should provide us with evidence to show that:

- it has implemented its new policy on reasonable adjustments for disabled people;
- it now keeps adequate records relating to decisions on reasonable adjustments for disabled service users; and

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- its officers are aware of the Council's new policy and its legal obligations under equalities legislation.

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*)

The complaint

1. In an earlier investigation, we considered a complaint from an individual that we will call Mr X (reference: 20011938).
2. Mr X had complained that male officers visited him, even though he had warned the Council that this might affect him because he suffers from post-traumatic stress disorder (PTSD).
3. This complaint deals with the Council's failure to act on all the recommendations we made in April 2021 which the Council had agreed to carry out within 12 weeks.

Legal and administrative background

4. 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*)
5. When we find fault causing injustice, we may recommend a remedy for any injustice caused to the person affected, and service improvements to prevent injustice being caused to others in future by similar fault. (*Local Government Act 1974, section 30, as amended*)
6. We consider six criteria when deciding whether to issue a public interest report, one of which is non-compliance with an Ombudsman's recommendation.

How we considered this complaint

7. We produced this report after examining relevant documents, including our final decision on Mr X's original complaint, our letters and emails to the Council and its responses.
8. Mr X and the Council had an opportunity to comment on a draft of this report. We considered their comments before completing this report.

What we found

Legal background

9. The reasonable adjustment duty is set out in the Equality Act 2010 and applies to any body that carries out a public function. Its aim is that, as far as reasonably possible, people who have disabilities should have the same standard of service as non-disabled people.
10. Councils need to:
 - check whether service users have disabilities that might affect how the Council should deal with them;
 - be prepared to implement reasonable adjustments in how they work to allow individuals with disabilities to access its services; and
 - keep a record of what adjustments are found to be reasonable and update the record if changes are needed.

What happened

11. We made recommendations after we found fault in an earlier investigation in April 2021.
12. Mr X suffers from PTSD. His PTSD is affected when faced with males in positions of authority. He had been dealing with the Council in relation to issues affecting his land and told the Council about his condition. Mr X asked that if its officers needed to visit him, the Council should either:
 - send female officers to meet him; or
 - give him warning if male officers would visit, so he could arrange adequate support.
13. Without warning, two male officers visited Mr X. Mr X complained and the Council apologised. However, it said it could not always ensure that female environmental health officers would be available. The Council said one of the officers was aware of Mr X's condition but had simply forgotten about it. The Council said that on the day of the visit, only male officers had been available.
14. We expect councils, at first contact with a service user, to enquire about any reasonable adjustments they might need to make, to act in accordance with adjustments it agrees, and to keep proper records of issues and outcomes so all staff members can provide fair, reasonable and equal access to all those who need its services.
15. We asked the Council if it had a system in place to deal with reasonable adjustments for service users with disabilities. It did not.
16. We made the following recommendations, that the Council agreed to carry out within 12 weeks of our final decision. The Council agreed to ensure that:
 - it has effective policies in place so that it meets its obligations to disabled service users and to keep adequate records to show it has done so; and
 - its officers are aware of the Council's obligations and act in accordance with them.
17. It is now more than a year since the Council agreed to carry out this remedy. It did eventually, in April 2022, produce a policy for its officers to follow so that it might meet its obligations on reasonable adjustments. In May 2022, the Council informed its Heads of Service about the new policy, and made it available to the public on its website. It has also made arrangements for training, but cannot confirm when this will happen.
18. However, we still have no evidence to show all remaining parts of the remedy were completed to our satisfaction.
19. In the last year, we have made sixteen separate requests for updates and for information to show the remedies had been satisfied. On six occasions, the Council did not respond at all to our contact. At the time of writing this report, the Council had not provided us with evidence to show that:
 - it now keeps adequate records to show it has implemented the policy; and
 - its officers are aware of the Council's obligations and act in accordance with them.
20. In its response to an earlier draft of this report, the Council said:

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- it would apologise on behalf of the Council, but asks us to understand the difficulties it has faced in the last two years as a small council with limited resources responding to the pandemic, while keeping staff safe and supporting businesses and residents; and
 - though it understands our concerns, it has agreed to our recommendations, the remainder of which will happen as soon as practicable.
21. The Council suggested that, in these circumstances, a public interest report might not be a proportionate response to its apparent tardiness.
 22. We have checked our records, including the cover letter we sent to the Council when sending our investigator's draft decision for the earlier investigation. In that letter we asked the Council to say whether there would be any issue completing the remedy because of changes to Council services following COVID-19.
 23. The Council had responded to the draft of the earlier decision to say it accepted our recommendations and that it would endeavour to implement them within our timescales. During the year that followed, we were told of a delay to allow for a report to be written and presented to the next personnel committee meeting. The Council did not say then, or at any other time, that its ability to comply with the agreed remedy would be affected by the COVID-19 pandemic. Nor did it mention the pandemic in its many responses in a year of requests for updates on when it would complete the agreed actions from the earlier investigation.

Conclusion

24. Where we find fault and make recommendations, we expect councils to carry them out within a reasonable time. This is important because, until changes happen, other individuals might be caused a significant and unnecessary injustice by the same fault.
25. It is also important that councils respond to our requests for evidence and information in a timely manner to avoid wasted effort and unnecessary expense to the public purse.
26. We recognise the last few years have been very difficult for many people and organisations, including all public bodies that had to continue to deliver services during the COVID-19 pandemic.
27. In response to these difficulties, we changed the way we worked. When finding fault and making recommendations, we asked whether allowances were needed because of the pandemic. The Council did not say the pandemic might prevent it from carrying out the agreed remedy. We have no record of it mentioning the pandemic as a reason preventing it from responding to our emails and letters, until it responded to a draft of this report.
28. We are not persuaded by the Council's suggestion that our decision to issue this report is disproportionate. The Council could and should have responded to all of our letters. It could also have agreed a reasonable extension for any delay caused by the pandemic. We were, and are always, prepared to listen and make reasonable accommodations for councils operating in difficult circumstances.
29. In addition, the recommendations we made related to the requirements of the Equality Act which has been in place since 2010. The Council should have had a suitable policy, relevant training, and adequate record keeping in place before the pandemic.

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30. We welcome that, eventually, following numerous prompts, the Council has carried out part of the agreed remedy. However, it is disappointing that it has failed to carry out all the recommendations it agreed to.
 31. The Council's failures are likely to have had consequences for individuals that could be extremely serious, as they are likely to affect a particularly vulnerable section of the public.
 32. The Council's failure to act, along with the unreasonable delay in doing so, is wholly unacceptable, as it could undermine public trust in our system of redress.
 33. We expect the Council to provide us with evidence to show it has carried out the remedy it has agreed without further delay.

Recommendations

34. Within three months from the date of this report, the Council should provide us with evidence to show that:
 - it has implemented its new policy on reasonable adjustments for disabled people;
 - it now keeps adequate records relating to decisions on reasonable adjustments for disabled service users; and
 - its officers are aware of the Council's new policy and its legal obligations under equalities legislation.
35. 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*)

Decision

36. We have completed our investigation into this complaint. There was fault by the Council found in an earlier investigation which remained unresolved.