

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

**Investigation into a complaint about
Thurrock Council
(reference number: 23 000 556)**

12 February 2024

The Ombudsman's role

For almost 50 years we have independently and impartially investigated complaints about councils and other organisations in our jurisdiction. If we decide to investigate, we look at whether organisations have made decisions the right way. Where we find fault has caused injustice, we can recommend actions to put things right, which are proportionate, appropriate and reasonable based on all the facts of the complaint. We can also identify service improvements so similar problems don't happen again. Our service is free.

We cannot force organisations to follow our recommendations, but they almost always do. Some of the things we might ask an organisation to do are:

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

We publish public interest reports to raise awareness of significant issues, encourage scrutiny of local services and hold organisations to account.

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

Miss Y The complainant

Report summary

Environmental Services and Public Protection and Regulation – Refuse and Recycling

Summary

Miss Y complained about the Council's failure to provide her with a reliable and effective assisted bin collection service. She has a disability and the Council has provided this service for a number of years. But there have been repeated issues with the service, which are still ongoing, despite her previous complaints to us and the Council's promises to resolve these.

Finding

Fault found causing injustice and recommendations made.

Recommendations

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)

To remedy the injustice identified in this report, we recommend the Council take the following action within three months of the report:

- apologise to Miss Y for its ongoing failure to provide her with a reliable and effective assisted bin collection service. We publish [Guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively to remedy injustice. The Council should consider this guidance in making the apology we have recommended;
- pay Miss Y £350 to reflect the worry and distress its failures have caused her. This is a symbolic amount based on our Guidance on remedies;
- offer Miss Y the opportunity to meet with a senior manager in the waste management team to discuss the issues with her assisted bin collection service and the action it has taken to resolve these;
- report to us on the changes it has made to resolve the issues with Miss Y's service; and
- review service requests and complaints about assisted bin collections over the last six months. If these show there are wider problems with the way it delivers its assisted bin collection service to its residents, the Council should consider what changes can be made to improve the service.

The Council has accepted our recommendations.

The complaint

1. Miss Y complained about the Council's repeated failure to provide her with a reliable and effective assisted bin collection service. She has a disability and the Council has provided this service for a number of years.
2. But there have been repeated issues with the service, which are still ongoing, despite her previous complaints to us and the Council's promises to resolve these.
3. Miss Y has told us the bin collection crews have repeatedly:
 - failed to collect and empty her bin. When this happens, she is left with rubbish inside building up until the next collection, causing a trip hazard in her home;
 - failed to return the empty bin to its correct place. When this happens, she cannot move the bin by herself; and
 - left bins in her driveway. When this happens, she cannot use her car or wheelchair to leave her house because she is unable to move the bins out of the way.
4. Miss Y wants the Council to take appropriate action to finally resolve these longstanding issues with her bin collection service.

Legal and administrative background

The Ombudsman's role and powers

5. 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)

The Equality Act

6. The Equality Act 2010 provides a legal framework to protect the rights of individuals and advance 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.
7. The Act makes it unlawful for organisations carrying out public functions to discriminate on any of the nine protected characteristics listed in it. They must also have regard to the general duties aimed at eliminating discrimination under the Public Sector Equality Duty.
8. The '[protected characteristics](#)' referred to in the Act are:
 - age;
 - disability;
 - gender reassignment;
 - marriage and civil partnership;
 - pregnancy and maternity;
 - race;
 - religion or belief;

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- sex; and
 - sexual orientation.

Public sector equality duty

9. The Public Sector Equality Duty requires all local authorities (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 Equality Act 2010;
 - advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - foster good relations between people who share a protected characteristic and those who do not.
10. The duty means organisations should think about discrimination, and the needs of people who are disadvantaged or suffer inequality, when they make decisions about how they provide their services and implement policies.

How we considered this complaint

11. We produced this report after examining relevant documents and information, including:
 - Miss Y's written complaint to us and the supporting information she provided;
 - the Council's responses to Miss Y's complaint and the information it provided in response to our written enquiries;
 - relevant law, guidance or procedures as referred to in this report; and
 - our internal guidance, such as our [Guidance on Jurisdiction](#) and [Guidance on remedies](#).
12. We gave the complainant 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

13. The Council provides an assisted bin collection service for residents whose disability or illness prevents them from taking their bins to the kerbside, and who have nobody in their household who can do this.

Previous complaints to us

14. In 2020, Miss Y complained to us about problems with her assisted bin service during the period from 2019. She reported 15 missed collections and bins not being returned correctly over the last 12 months, even though the Council had monitored her collections for a time during this period. We found fault and the Council agreed to monitor Miss Y's collections for a further four weeks.
15. In 2021, Miss Y complained to us again about missed bin collections and other issues during the period since her previous complaint. We found fault and the Council agreed to carry out further monitoring until August 2022.

February 2023: Miss Y reports further problems to the Council

16. Miss Y told the Council the problems with her collections were still happening. Collections were being missed, and bins left in the wrong place, sometimes

blocking her driveway. She was unhappy it had failed to resolve the problems, despite the action it had taken following her previous complaints.

17. The Council investigated her concerns. It told Miss Y:
 - there might be times when the in-cab reporting system for identifying assisted bin collections could not be used by the crew, if for example, there was a malfunction with the system;
 - managers were now handing laminated instructions about the assisted bins to crews before their collection rounds. This would also ensure new crews had written instructions for each round. It had arranged to place stickers on all assisted bins to help crews identify them;
 - there would still be times when, due to human error, bins would be missed. It had given Miss Y contact details for the waste team so she could report any issues directly. When this happened a team member had returned to resolve the issue; and
 - it would monitor her collections for three months.

April 2023: Miss Y's complaint to us

18. Miss Y told us there were still issues with the bin collection service.
19. Our enquiries have confirmed:
 - Miss Y reported a number of issues to the Council, including missed collections and bins blocking her driveway, in the period from September 2022. The last monitoring had ended in August 2022;
 - following her contact in February 2023, the Council had carried out further monitoring from March to June 2023; and
 - Miss Y reported further problems in July 2023, once the monitoring had ended.
20. The Council also told us:
 - it had now provided photos and written instructions to crews to show where Miss Y's bins should be returned;
 - crews would confirm to their supervisor that her bin had been returned to its correct location; and
 - a supervisor would monitor the situation for two months to check the instructions for Miss Y's collection had been properly followed.

Conclusions

21. Our investigation has shown, and the Council accepts, there have been further problems with Miss Y's bin collection service from September 2022, after the end of the previous monitoring period. The Council says human error cannot be eliminated. But we do not consider this is an adequate explanation for the poor service Miss Y has received, especially given the many opportunities the Council has had to address it.
22. Miss Y relies on the assisted service to allow her to use the bin collection service the Council provides to all its residents. She has told us, and we accept;
 - what is a routine bin collection for most residents becomes a weekly source of problems and worry for her because of the repeated failures in the service;

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- if her bin has not been moved to the roadside her rubbish will not be collected by the crews. If a bin is left blocking her driveway, she is unable to leave her house on her own until this has been moved. If a bin has not been returned to its correct location by the crew, she has to ask someone else to do this; and
 - she has to ask family and friends for help with these failures in the service or make a phone call to the waste team to ask for their assistance.
23. We consider this affects Miss Y's independence, dignity, and ability to manage what should be a routine part of everyday life. The failings in the service have continued to cause her worry and distress, and mean she is treated less favourably than someone without a disability.

The Council's Public Sector Equality Act Duty

24. This requires the Council to reflect equality considerations into the design of its policies and delivery of services. It has considered its duty by providing an assisted bin collection service to those who need help because of their disability, so they can use its residents' refuse collection service.
25. But it is not enough just to offer this service. The Council also needs to reflect equality considerations into its delivery.

The Council's response to this complaint

26. We appreciate there are some practical issues with providing an effective assisted bin collection service, particularly when crews may not be familiar with a round and under pressure to complete their work quickly. We are pleased to note the steps the Council's waste team has taken to address these this year, in response to the ongoing problems with Miss Y's service.
27. But we remain concerned that previous improvements to Miss Y's assisted bin collection service have only been temporary, with problems recurring once monitoring has ended. We are also concerned that other disabled residents who rely on the service may have experienced similar problems.
28. By issuing this report we expect the issues with the assisted bin collection service and their impact on those, such as Miss Y who rely on it, will be taken seriously by the Council. And that the changes needed to improve the service on a permanent basis will be made.

Recommendations

29. 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)
30. In addition to the requirements set out above, the Council has agreed to take the following action to remedy the injustice identified in this report:
- apologise to Miss Y for its ongoing failure to provide her with a reliable and effective assisted bin collection service. We publish [Guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively to remedy injustice. The Council should consider this guidance in making the apology we have recommended;
 - pay Miss Y £350 to reflect the worry and distress its failures have caused her. This is a symbolic amount based on our Guidance on remedies;

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- offer Miss Y the opportunity to meet with a senior manager in the waste management team to discuss the issues with her assisted bin collection service and the action it has taken to resolve these;
 - report to us on the changes it has made to resolve the issues with Miss Y's service; and
 - review service requests and complaints about assisted bin collections over the last six months. If these show there are wider problems with the way it delivers its assisted bin collection service to its residents, the Council should consider what changes can be made to improve the service.

Decision

31. We have completed our investigation into this complaint. There was fault by the Council causing injustice for the reasons explained in this report. The Council has agreed to take the above recommended actions as an appropriate remedy for the injustice caused by the fault.