

# How the Independent Adjudicator will deal with your complaint – a fact sheet

This fact sheet is for you if you have **already** pursued your complaint through stages one and two of the Council's complaints procedure.

The Independent Adjudicator (IA) deals with complaints at stage three of the Council's complaints process and provides a free, independent and impartial service. The IA considers complaints about the administrative actions of the Council and its partners, for example, Lewisham Homes and Regenter B3\*. She cannot question what actions these organisations have taken simply because someone does not agree with it. But, if she finds something has gone wrong, such as poor service, service failure, delay or bad advice and that a person has suffered as a result, the IA aims to get it put right by recommending a suitable remedy.

## ***When you examine my complaint, what do you look for?***

The IA must find out two things:

- was there fault by the Council? **and**
- did this fault affect you, personally?

The IA might find fault if the Council:

- made a mistake
- took too long to do something
- did not follow its own rules or the law
- treated you unfairly
- broke its promises
- failed to meet expected standards of service
- gave you wrong information
- did not tell you that you had a right of appeal against a decision, or
- took a decision in the wrong way, such as:
  - not taking all the relevant information into account
  - taking into account irrelevant information, or
  - not following its own procedure properly.

The IA might find that you were affected personally if you:

- did not get a service or benefit that you should have had, at the time you should have done;
- suffered financial loss; or
- suffered a lot of avoidable expense, trouble or inconvenience.

But the IA will not usually consider your complaint if she thinks, when considering the information that you provide, that you were only slightly affected, or if the organisation has taken, or is willing to take, satisfactory action to resolve it.

While the IA is looking at your complaint, she can also look to see if the things that went wrong for you are part of a wider service failure that might affect others.

## ***What happens when you get my complaint?***

- You will receive an acknowledgement within two days of receipt of your complaint. You may also receive a telephone call to discuss your complaint in further detail before it is submitted to the IA.
- The IA must decide if the law allows her to consider your complaint – she can usually do this quickly, but sometimes she needs more information from you, or the Council before she

can make a decision.

- If the law does not allow the IA to investigate your complaint, or if she decides not to, for example because the injustice to you is only slight, she will tell you quickly as possible. The IA will also suggest if there is anyone else who might be able to help you instead.
- If the IA can take up your complaint, she will ask the Council to provide information and comments on it. The IA will send the organisation copies of documents you sent her and she will interview officers to seek further information and clarification where necessary. The IA may also wish to meet with you.

### ***What happens if you can consider my complaint?***

- The IA will examine your complaint, including any supporting material you have given her.
- The IA will consider both sides of the complaint.
- The IA may be able to make a decision using just the information you have given her, or she may:
  - get information from the Council
  - examine the relevant files and records
  - meet you, officers, or other people, or
  - visit the site, if necessary, because it is relevant to your complaint.
- The IA will continue looking into your case until she has enough information to allow her to come to a view. She will advise you of that view in writing within 30 days of receiving your complaint. You will also be told if the IA needs more time to reach a decision on your complaint.
- The IA cannot normally tell the Council what to do while she is considering your complaint. The authority should continue to deal with matters in the usual way: so if things are still going wrong, it is important that you tell officers.
- The IA must let the Council know what she has decided.

### ***What can you do to put things right?***

- If it looks to the IA as if there was fault and that this did affect you, personally, then the IA will usually ask the Council to take action to resolve the matter – sometimes the authority itself will suggest this.
- If the IA thinks that the proposed action is fair, the IA will tell you so and close the complaint.
- There are too many different possibilities to list here, but the IA might ask the Council to:
  - apologise to you
  - pay you compensation
  - do repairs to your council home
  - take action, provide a service, or make a decision that it should have done before
  - reconsider a decision that it did not take properly in the first place
  - improve its procedures or conduct staff training so that similar problems do not happen again to you or anyone else, or
  - consider taking enforcement action against an unauthorised building close to your home, or against the unauthorised use of a building.
- The IA's recommendations are binding on the organisation.

### ***How long does it take?***

- The IA will write to you with her decision on your complaint within 30 days of receiving it.
- In some complex or unusual cases, the IA might take longer – you will receive regular updates on her progress.

### ***Can I go to court as well?***

- Generally, no – the IA cannot investigate cases against the Council that you could go to court about (or appeal to a tribunal or a Government Minister about) unless she thinks that there are good reasons why you should not have to do that.
- If you have *already* gone to court, an appeal or Government Minister, it is very unlikely that the IA could look at your complaint.
- If you go to court while the IA is already looking at your complaint, she will have to stop her investigation.

### ***Can I complain about your decision or how you dealt with my case?***

- The IA is the third and final stage of the Council's complaints procedure. If you remain dissatisfied you can pursue your complaint with the Local Government Ombudsman, whose address is:  
PO Box 4771, Coventry, CV4 0EH      Email: [advice@lgo.org.uk](mailto:advice@lgo.org.uk)      Website: [www.lgo.org.uk](http://www.lgo.org.uk)  
Tel: 0845 602 1983 or 024 7682 1960 Text: 0762 48 432

or, in some housing complaints, with the Housing Ombudsman<sup>\*\*\*</sup>, whose contact details is:

Housing Ombudsman Service  
81 Aldwych  
London  
WC2B 4HN

**Telephone:** 0300 111 3000

**Fax:** 020 7831 1942

**Email:** [info@housing-ombudsman.org.uk](mailto:info@housing-ombudsman.org.uk)

### ***What kind of cases has the IA dealt with?\****

- Ms Z complained that the Council had delayed carrying out repairs to her home. She said that she had reported the repairs in December and they had still not been completed by October. Ms Z also complained that inspections did not identify all the work that was needed; the work that was done was poor and had to be repeated; and that officers promised to visit and then did not turn up. Ms Z explained that, because of the disrepair, she could not use her lounge. The IA found that the Council was at fault and she asked it to complete the repairs as a matter of urgency. She also asked it to apologise to the complainant.
- Mr V complained that he had applied for a transfer in 2009 but he and his family, who were very overcrowded in their small flat, had yet to be successful in bidding for a larger home. Mr V also complained that their neighbour was causing them a nuisance. The IA found that the Council had properly applied its transfer policy to the complainant's application and had given it the correct priority, taking into account all of the family's circumstances. The IA also found that the nuisance had been properly dealt with.

\* For simplicity, this fact sheet refers to 'the Council', meaning the Council and its partners

\*\* Example cases only: each complaint will be considered on its merits

\*\*\* If you are unsure that this applies to your complaint, please contact Corporate Complaints or see the Council's website