

Report

on an investigation into
complaint no 08 017 330 against
Canterbury City Council

12 October 2009

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Table of Contents	Page
Report summary	1
Introduction	3
Legal and administrative background	3
Investigation	3
Events relating to the complaint	3
The views of Miss Willow	6
The Council's views	6
Conclusions	8
Complaint a): that the Council prevented Miss Willow and Mr Beech from making a homelessness application.	8
Complaint b): that the Council offered unsuitable interim accommodation to Miss Willow and Mr Beech in January 2009.	11
Complaint c): that the Council failed to deal with Miss Willow's medical information properly.	11
Findings	12
Appendix 1	14
Legal and administrative background	14

Key to names used

Miss Willow	The complainant
Mr Beech	The complainant's partner
Mrs Willow	The complainant's mother
Mr Finch	Head of Safety and Wellbeing
Ms Lark	Housing Advice Officer
Ms Bird	Housing Advice Officer

Report summary

Subject

The Council failed to recognise that Miss Willow (who was pregnant and developed mobility problems) and her partner, Mr Beech, were making a homelessness application. As a result, it delayed unreasonably in carrying out the enquiries housing authorities are duty-bound to make if they have reason to believe applicants are homeless or threatened with homelessness. This in turn led to a delay in the Council offering Miss Willow and Mr Beech interim accommodation pending the outcome of those enquiries.

When the Council eventually offered the couple interim accommodation (a first floor room in an unlifted hotel), it was unsuitable for Miss Willow who was heavily pregnant and a wheelchair user at that time.

In addition, the Council's handling of medical information and an Occupational Therapist's report (provided by Miss Willow and Mr Beech in support of their homelessness application) was inadequate.

The Ombudsman considers there was fault in the way the Council dealt with the couple's homelessness application. He is particularly concerned about officers' failure to recognise that a homelessness application had been made; their reliance on homelessness prevention as an alternative to taking a homelessness application (instead of pursuing the two in tandem); and their implied threat of bed and breakfast accommodation in an apparent attempt to dissuade the couple from making an application.

Finding

Maladministration causing injustice.

Recommended remedy

The Ombudsman has recommended the following:

- (a) that the Council offer Miss Willow and Mr Beech £1,750 compensation;
- (b) that it make changes to its policy and procedures for dealing with homelessness applicants and medical information provided in support of applications;
- (c) that it make changes to its standard letters; and
- (d) that relevant staff receive appropriate training.

Introduction

1. Miss Willow and Mr Beech lived with Miss Willow's mother, Mrs Willow. Miss Willow became pregnant and, from June 2008 onwards, approached the Council several times for help with housing. Shelter complained to me on behalf of Miss Willow about
 - (a) the Council's handling of the couple's attempts to make a homelessness application;
 - (b) the suitability of the interim accommodation offered by the Council when the couple had been evicted by Mrs Willow; and
 - (c) the Council's handling of the medical information provided by Miss Willow and its handling of an Occupational Therapist's assessment.
2. For legal reasons the names used in this report are not the real names of those concerned.

Legal and administrative background

3. Details of the legal and administrative background are in Appendix 1 at the end of the report.

Investigation

4. My investigator has seen the available paperwork on the complaint and has interviewed the Head of Safety and Wellbeing (Mr Finch), two Housing Advice Officers (Ms Lark and Ms Bird), a Housing Officer, and a Lettings Officer. My investigator has also interviewed Miss Willow and Mr Beech. I sent a copy of a draft of my report without conclusions to the Council, Miss Willow and Shelter. Where appropriate their comments are reflected on the text.

Events relating to the complaint

5. Miss Willow and Mr Beech first approached the Council for help with housing in 2007. They were living with Miss Willow's mother and two adult siblings in a three bedroom house. The bathroom and toilet were both upstairs. Miss Willow's siblings slept in two of the bedrooms, while she and Mr Beech slept on the living room floor. Although they were accepted on to the Council's general housing register, they had a very low priority.
6. On 30 June 2008 Miss Willow visited the Council to report that she was pregnant, and was invited to contact the Council again once she could provide proof of the pregnancy.

7. On 21 August 2008 Miss Willow, Mr Beech and Mrs Willow visited the Council to discuss their housing situation. They told Ms Lark that Miss Willow's baby was due in February 2009, and that she and Mr Beech were sleeping on Mrs Willow's living room floor. Mrs Willow said she had had enough of the rows between Miss Willow and her siblings. Ms Lark advised the couple to look for private rented accommodation or to look at shared ownership. She recalls offering advice on the rent deposit scheme but her note of the meeting does not support this. Miss Willow has no recollection of ever having being told about the rent deposit scheme.
8. On 15 October 2008 Miss Willow visited the Council again and left a letter saying she had constant pain in her back and stomach, and would have to wear a maternity brace as a result.
9. On 22 October 2008 Miss Willow gave the Council a completed medical questionnaire. She said she was six months pregnant and had problems with her back and pelvis because she was sleeping on the floor. She also said that she would lose her balance because the pain affected her back and legs when walking, standing or on stairs. She provided a letter from her hospital's Occupational Health Department saying that she had significant mobility problems and recommending that her accommodation needs be addressed as a matter of urgency.
10. On 31 October 2008 Miss Willow visited the Council again. She gave the Council a letter from her GP which said she had a painful condition of the bones in her pelvis which would cause considerable difficulty with stairs both during and after the pregnancy. The GP recommended ground floor accommodation or accommodation with lift access.
11. On 7 November 2008 Mrs Willow called the Council to say that she was selling her property and wanted her daughter to leave. On 14 November, the Council gave Miss Willow details of estate agents and told her to keep looking for private rented accommodation. The same day, Miss Willow complained to the Council by email saying that she was a wheelchair user, was sleeping on her mother's living room floor and would soon be homeless. The Council did not respond to this complaint.
12. On 24 November 2008 Shelter wrote to the Council reiterating that Miss Willow was a wheelchair user; that she had difficulty getting the wheelchair into her mother's house and had, in any event, been asked to leave. The letter said that the Council had a duty to make enquiries into Miss Willow's housing application and to provide interim accommodation whilst doing so. The Council did not respond to this letter.
13. On 9 December 2008 Shelter called Ms Lark to say that Miss Willow had been refused a homelessness appointment twice in the last two weeks and would be homeless that night. Ms Lark told Shelter that "she knows full well what

emergency accommodation will be and not likely to [be] as good as with her mother”.

14. On 10 December 2008 Ms Lark called Miss Willow who said she was sleeping on her mother’s floor, and used a wheelchair outside and crutches indoors. Ms Lark told Miss Willow that if the Council had to find her a place in an emergency it would be bed and breakfast.
15. Ms Lark sent a fax to the Council’s medical adviser the same day (10 December) giving details of Miss Willow’s medical problems and asking what medical priority she should be given. Despite having been provided with a copy of the GP’s letter referred to in paragraph 10, the medical adviser said that Miss Willow’s medical problems would be resolved at the end of the pregnancy. He recommended band 3 priority on medical grounds and said that up to first floor without a lift or any floor with a lift would be suitable.
16. On 17 December 2008 Mrs Willow and Mr Beech visited the Council to discuss the housing situation with Ms Bird. Miss Willow had been advised by her hospital to rest. Mrs Willow was adamant that the couple could not remain living with her. Ms Bird said she would investigate the homelessness situation to see if the Council had any duty towards the couple. She also said that the Council did not always have to provide accommodation. Mrs Willow and Mr Beech walked out of the interview, and Ms Bird took that to mean that they did not want to pursue the homelessness application.
17. On 22 December 2008 the Council received an Occupational Therapist’s assessment of Miss Willow. The assessment said that she was currently in very unsuitable accommodation as she could not manage stairs. She recommended a move to a property without steps and stairs as soon as possible.
18. On 6 January 2009 Mr Beech called the Council to say that Mrs Willow had thrown them out and they needed somewhere to stay that night. The Council offered the couple a room on the first floor of an unlifted hotel, saying that was the only accommodation it had available. The Council says that Mr Beech and Miss Willow said they would be able to manage the stairs. The couple deny having said this. Miss Willow said they had told the Council the only way she could get to the first floor was if Mr Beech carried her there. They did, however, go to the hotel but did not go in as they were greeted at the door by drug dealers. They returned to Mrs Willow’s home.
19. On 14 February 2009 Miss Willow gave birth to her son. On 23 February she spoke to Ms Lark who told her she could now bid for two bedroom properties. Miss Willow said she would bid for properties under the Council’s choice based lettings scheme and continue to look for privately rented accommodation.
20. On 4 March 2009 Miss Willow visited the Council with her baby. She told Ms Lark that she had been told to leave her mother’s home. At that time she could walk

but could not manage stairs without pain. The Council gave Miss Willow and Mr Beech a decision letter on their homelessness application. This stated that the Council had decided that they were unintentionally homeless, eligible for assistance and in priority need. It did not advise them of their right to request a review of the decision or of the time limit within which to seek a review. Ms Lark said the Council only had one ground floor property available. Miss Willow and Mr Beech were given a second letter formally offering them a non-secure tenancy of a self-contained one bedroom ground floor flat in a hostel. The letter advised them of their right to seek a review of the suitability of the accommodation, but instead of saying they had 21 days in which to request a review, it said they should do so immediately. It also said that the offer “discharges our duty to make a home available for you”. Miss Willow and Mr Beech accepted the offer and moved in. The Council says that this is described as a hostel because occupants will not be given secure tenancies, only non-secure tenancies for the accommodation.

21. Miss Willow and Mr Beech requested a review of the suitability of the flat in the hostel. Mr Finch said a letter sent to Shelter by the Head of Legal and Democratic Services on 8 June 2009 gives the decision on the review. The letter implies that the Council’s view is that the property is suitable, but fails to say that the couple can appeal to the County Court should they be dissatisfied with the outcome of the review. The letter does say, however, that the Head of Legal and Democratic Services had been advised that Miss Willow and Mr Beech applied to the Council as homeless on 4 March 2009.
22. In line with its policy, the Council suspended Miss Willow and Mr Beech from its housing register until they had completed a new form providing details of their change in circumstances. They have done so and their application has now been unsuspended so that they may bid for permanent accommodation.

The views of Miss Willow

23. Miss Willow denied that all she wanted from the Council prior to January 2009 was advice on renting privately. She told my investigator that she had been in touch with the Council every week saying she was homeless and could not rent privately because it was too costly. She said the Council refused to help with accommodation.
24. Miss Willow said that the Council knew she and Mr Beech would become homeless as it had letters from her mother from months before. But even after her son was born the Council kept telling Miss Willow and Mr Beech that their only option was to rent privately.

The Council’s views

25. Mr Finch, Ms Lark and Ms Bird all stressed the importance placed on homelessness prevention. They told my investigator that a great deal of work is

done to prevent homelessness, and that this might include negotiating with parents to prevent them evicting their child. They said that much store is placed on the housing options interviews. A housing options interview is also a homelessness interview.

26. Ms Lark and Ms Bird said they always advise housing applicants what they might expect if they go down the homelessness route. This might mean, for example, that they end up in bed and breakfast accommodation if nothing else is available on the day. Neither Ms Lark nor Ms Bird considered that Miss Willow had been discouraged from making a homelessness application during the housing options interviews.
27. Ms Lark said that during the office visit on 21 August 2008 Miss Willow and Mr Beech were happy with the advice offered regarding shared ownership and help with a deposit to rent privately. She said the couple did not want to make a homelessness application, but Ms Lark invited them to return as there was the potential for them to become homeless.
28. Ms Lark said she “lost” the couple when they did not move into the hotel in January 2009. She said she assumed they had returned to Mrs Willow’s home, but did not try to find out where they were. Ms Lark said she had no further contact with the couple until they came in with the baby, and they were then offered the flat in the hostel.
29. Mr Finch said he had not seen the emailed complaint from Miss Willow (dated 14 November 2008) or Shelter’s letter of complaint (dated 24 November 2008). He said he was unlikely to have said that a homelessness application should have been taken as a result of these.
30. Mr Finch acknowledged that there was a lack of written information available for homelessness applicants. He said that the Council had to be sure that applicants were homeless or threatened with homelessness. He also explained that the minimum size of temporary accommodation offered to homeless applicants would be guided by statutory overcrowding numbers.
31. The Council said that its medical adviser’s report did not preclude the offer of first floor accommodation and pointed out that the hotel room was only intended to be short-term emergency accommodation. It also said that officers do not have access to other medical expertise to challenge the views of the adviser.
32. In response to the draft of my report, the Council accepted that the case highlights a number of areas where improvements can be made. It told me its Housing Options Team has recently been restructured, and that training in homelessness and homelessness prevention is planned for a number of staff over the coming months, including new and inexperienced staff. It also told me that it will be reviewing its policies, procedures and standard letters to bring them up-to-date and to give clearer information for its customers. It offered £500 to

compensate Miss Willow and Mr Beech for the inconvenience and the misunderstanding they have experienced.

Conclusions

33. I have a number of concerns about the way Miss Willow and Mr Beech's homelessness application was handled by the Council.

Complaint a): that the Council prevented Miss Willow and Mr Beech from making a homelessness application.

34. I recognise that a large part of the Council's role is the prevention of homelessness by, for example, enabling people to rent privately with the help of a rent deposit. I do not doubt officers' strongly-held belief that they are successful in preventing homelessness. But there is a fine line between giving advice (which might enable applicants to resolve their housing situation themselves), and preventing a genuinely needy person from making a homelessness application. In this case, there is a difference of opinion between Miss Willow and Mr Beech (who are adamant they were going to be made homeless and went to the Council for help with housing which was not forthcoming) and the Council (which says they only wanted advice).
35. I am concerned that the advice given by officers may actively discourage people from making applications. In particular, I am concerned that while the Council may use bed and breakfast accommodation only in emergencies when nothing else is available, officers routinely tell applicants this is where they may end up being placed. This may not be intended as a threat, but this is how it comes across. This point is demonstrated by the telephone conversation with Shelter on 9 December 2008 (see paragraph 13). I recognise that applicants should be told what a homelessness application might entail, but this should not be used to discourage applications from being made.
36. In any event, it is my view that homelessness prevention activity does not absolve the Council of the duties placed upon it by the Housing Act 1996. I have been told that officers have to be sure that applicants are homeless or threatened with homelessness, yet that is what the enquiries required of the Council under section 184 of the 1996 Act are intended to establish. Officers could not say when Miss Willow and Mr Beech had made a homelessness application. This suggests that officers are so focussed on giving advice that they are failing to spot when applicants are homeless or threatened with homelessness, with all the duties that places on the Council. It would appear, therefore, that the Council is failing to comply with those duties. It is of particular concern that the Council's solicitor wrote to Shelter in June saying he was "advised" that Miss Willow applied to the

Council as homeless on 4 March 2009. This is despite Miss Willow and Mr Beech being actually homeless in early January 2009.

37. I would not criticise the Council for trying to prevent homelessness, for example by discouraging a parent from evicting an adult child. But in this case, there is no evidence to suggest the Council ever liaised with Mrs Willow, other than when she visited the Council's offices of her own volition in December 2008. But in any event, it is not clear to me how the Council could have encouraged Mrs Willow to keep her pregnant and disabled daughter at home when the only available place to sleep was the living room floor.
38. The Council places great store in its housing options interviews. But housing options requires the Council to be proactive in finding alternative accommodation for applicants. It is not enough to give an applicant a list of estate agents and tell her to go and make her own arrangements. In this case, the Council appears to have done nothing to find privately rented accommodation (if that is what it thought was the best solution), and the rent deposit scheme appears not to have been mentioned until January 2009 by which time Miss Willow and Mr Beech were actually homeless. The Council should have been looking at housing options and dealing with the couple's homelessness application in tandem.
39. Overall, and in the light of Miss Willow and Mr Beech's experience, it seems that officers have lost sight of the Council's duties towards homelessness applicants placed on the Council by the Housing Act 1996. In this case, Miss Willow was in frequent contact with the Council from June 2008 onwards. She then complained to the Council about its lack of action in November 2008 and this was quickly followed by a letter from Shelter pointing out the Council's duties. The Council failed to respond to either complaint but, in any event, it appears that neither would necessarily have resulted in a homelessness application being triggered. The Council's actions give the impression that someone has to be actually homeless before the Council will do what the law requires.
40. It is my view that the Council should have taken a homelessness application from Miss Willow and started the necessary enquiries when she visited the Council on 21 August 2008. By that point she was pregnant and sleeping on her mother's living room floor. The Council should have considered whether it was reasonable for her to continue living with her mother in such circumstances. Yet there is no evidence to suggest that suitability was ever considered at that point or later, when Miss Willow's medical condition manifested itself and she became confined to a wheelchair. Had it taken a homelessness application in August 2008, I think it would have been reasonable for the Council to offer Miss Willow and Mr Beech interim accommodation pending the outcome of its enquiries into their application. As it is, the Council waited until the couple were actually homeless before taking any of the action required of it by the 1996 Act. I am concerned that this may not be an isolated case.

41. In addition, when the couple did not move into the first floor hotel room in January 2009, officers did nothing to find out why that was or where they were. The Council has not said whether it was told by the couple or the hotel that they did not take up the offer. In any event, having presumably decided that the couple were homeless or threatened with homelessness, officers then failed to make the enquiries required to establish whether the Council owed them any duty to help with housing.
42. The decision letter on the couple's homelessness application, when it eventually came on 4 March 2009, failed to tell them of their right to request a review of the decision and the time limit within which the request should be made. This failure was not critical in this case, as the Council's decision was favourable to Miss Willow and Mr Beech. Nevertheless if, as has been suggested, this is a standard letter sent out to homelessness applicants, it fails to provide the information which the Council is required by law to provide. (I recognise that this information is provided in the leaflet *Homeless decision – your rights.*)
43. The standard letter given to homelessness applicants when accommodation is offered under section 193 of the 1996 Act is badly worded and ambiguous. It seems that the accommodation is offered under section 193(2) of the Act, i.e. that accommodation is made available. If that is the case then the letter should say so. Whilst this may not be of particular interest to the applicants, any advice agency or solicitor will want to know under what part of the Act the accommodation is being offered. It is also unhelpful for the letter to say that the Council has discharged its duty, as this is only true when any of the conditions described in section 193(5) onwards is met.
44. Miss Willow and Mr Beech have complained about the suitability of the hostel accommodation offered by the Council apparently under section 193. As there is a right of review and appeal to a court about the suitability of such accommodation, that is not a matter I will consider. However, the Council says that the letter from the Head of Legal and Democratic Services dated 8 June 2009 gives the decision on the request for a review. If that is the case, the letter should have said so explicitly. It should also have notified the couple of their right to pursue their appeal to the County Court, and the time limit for doing so.
45. A general concern for me is the lack of written information available for homelessness applicants. The Council's Lettings Policy information booklet is geared towards general housing applicants. So homelessness applicants have no idea how their applications will be dealt with. Nor do they know what size of accommodation they might be offered as the type and size of home considered suitable for general housing applicants set out in the policy is not necessarily applied to homelessness applicants. It is not reasonable for the Council to rely solely on verbal advice for homelessness applicants. Such applicants will undoubtedly be distressed and worried about their situation, and are unlikely to absorb all the information given during a housing options interview. In any event,

this lack of written advice and information is contrary to the Government's Code of Guidance.

46. It is also not clear to me why it is necessary for homelessness applicants to submit a fresh application form when they are offered temporary accommodation, or why they are suspended from bidding for permanent accommodation in the meantime. After all, the Council knows about the change in the applicants' circumstances as it has created that change by the offer of accommodation. It is my view that this is putting another unnecessary obstacle in the way of homeless applicants.

Complaint b): that the Council offered unsuitable interim accommodation to Miss Willow and Mr Beech in January 2009.

47. The Council says that Miss Willow and Mr Beech said they could manage the stairs. Miss Willow says they told the Council the only way she could get up the stairs was if Mr Beech carried her.
48. Whatever the truth of the situation, it is my view that the offer of a first floor room in an unlifted hotel was unlikely to be suitable in the circumstances. The Council was aware that Miss Willow could not manage stairs, and Shelter told it the day the offer was made that the room was not suitable. The Council should not have expected Mr Beech to carry a heavily pregnant Miss Willow up and down stairs to a first floor room. There appears to have been no thought given to what might have happened to Miss Willow or her unborn child had they fallen, or what injuries Mr Beech might have suffered trying to carry her.
49. The Council says it explored all resources available to it to find suitable accommodation, but has provided no evidence to show this is the case either at the time or since. It seems unlikely that on the day in question this was the only accommodation available anywhere in the Council's district.

Complaint c): that the Council failed to deal with Miss Willow's medical information properly.

50. Miss Willow completed a medical questionnaire and provided evidence at the end of October 2008 showing she had mobility problems and that her accommodation needed to be reviewed as a matter of urgency. But it was not until 10 December 2008 that the Council asked its medical adviser for advice on the medical priority that should be given to the couple's existing general housing application. This took too long in my view.
51. I am concerned about what account the medical adviser took of the letter from Miss Willow's GP. This clearly stated that she would have problems with stairs during the pregnancy and following the birth of the baby. The letter also clearly stated that Miss Willow was a candidate for ground level or lifted accommodation. Yet despite this, the Council's medical adviser said Miss Willow's problems would

resolve themselves after the pregnancy was completed and recommended properties up to a first floor without a lift, or anywhere with a lift. This advice is contrary to the GP's opinion but, despite my investigator pointing this out to the Council, it has responded by saying that officers do not have access to other medical opinion to challenge this decision. I accept that the Council can and should seek appropriate medical advice when necessary, but officers should not dogmatically follow that advice if it appears the adviser has failed to take account of relevant information.

52. I am also concerned that the OT report was not passed to the medical adviser. The Council says it offered no new information. But the report said that Miss Willow should be moved to a property without steps or stairs as soon as possible. Given the medical adviser's view that Miss Willow could be offered a property up to the first floor, the Council should have asked him to review his decision in the light of the OT's recommendations, even though they were largely a repeat of what Miss Willow's GP had said.

Findings

53. I consider the Council's faults that I have identified in the paragraphs above amount to maladministration that has caused injustice to Miss Willow and Mr Beech. I welcome the positive response from the Council to my investigator and the draft of this report. I am, nevertheless, making a number of recommendations.
54. I consider that the Council should compensate Miss Willow and Mr Beech to remedy the injustice they suffered as a result of the identified faults. The Council has offered £500 compensation and I welcome this offer. In my view, however, a more appropriate figure would be £1,750 to reflect the distress, anxiety and uncertainty suffered by the couple, as well as for the fact they had to endure inadequate and unsuitable living conditions because of the Council's failure to take their homelessness application.
55. In addition, the Council should ensure that it arranges training on homelessness prevention and dealing with homelessness applications for all relevant staff, including those with experience. As part of this, the Council should ensure that its staff are clear on when a homelessness application should be taken, and that they make the necessary enquiries needed to reach a decision on the application *in tandem with* their homelessness prevention activities. The Council should tell me when this training is due to start.
56. The Council should ensure that its staff are more proactive in finding alternative accommodation for homelessness applicants as part of its homelessness prevention activities.
57. The Council should update its policies and procedures so that homelessness applicants can be given something in writing telling them how their applications

will be dealt with. I am pleased to note that the Council is already in the process of reviewing its procedures and policy guidance, so I think it would be reasonable for this process to be completed within six months of the date of this report. The Council should provide me with copies of its revised procedure and policy guidance.

58. The Council should update its standard letters so that they are clear, unambiguous and provide the information they are required by law to provide. Again, as the Council is already in the process of doing this, I think it would be reasonable for this to be completed within three months of the date of this report. The Council should provide me with copies of the revised letters.
59. The Council should take steps to ensure that, where necessary, medical questionnaires are forwarded to its medical adviser promptly. It should also remind its staff that its medical adviser provides advice but that the decision rests with the Council. It should have the means to review any advice which appears to be at odds with the medical evidence available and to refer the matter back to its adviser for additional comment.
60. Finally, the Council should cease suspending homelessness applicants from the housing register pending receipt of a new application, following the offer of accommodation under section 193 of the Housing Act 1996.

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12 October 2009

Appendix 1

Legal and administrative background

1. When a couple apply to a housing authority (i.e. the Council) for accommodation, or for assistance in obtaining it, and the authority has reason to believe that they may be homeless or threatened with homelessness, a number of duties arise. These duties include a) to make enquiries¹, b) to notify the applicant of the decision in writing², which should include notification of the right to request a review of the decision³, and c) secure suitable accommodation for certain applicants pending the outcome of the enquiries⁴.
2. Authorities also have a duty to ensure that advice on homelessness and prevention of homelessness is available⁵, so that homelessness might be prevented by early intervention. Councils are expected to explain the various housing options available to applicants. The Government has issued a Homelessness Code of Guidance for Local Authorities which explains that these housing options might include advice and assistance to enable applicants to remain in their homes, or assistance with securing accommodation in the private sector⁶.
3. The Code of Guidance recommends that housing authorities should provide applicants with a clear and simple explanation of their procedures for handling applications and making decisions. The Code suggests that this explanation should be given in writing, for example in the form of a leaflet, as well as verbally⁷.
4. There are no statutory time limits within which the enquiries described in paragraph 1 should be completed. But the Code of Guidance recommends that housing authorities aim to complete their enquiries within 33 working days⁸.
5. Councils must have regard to the Code of Guidance although, provided they have done so, they can depart from its provisions.
6. Whilst the authority carries out its enquiries, it must secure suitable accommodation for the applicants if it has reason to believe that they may be homeless, eligible for assistance and in priority need⁹. Where applicants already

¹ Housing Act 1996, section 184

² Ibid

³ Ibid, section 202

⁴ Ibid, section 188

⁵ Ibid, section 179

⁶ Code of Guidance, para 6.3

⁷ Code of Guidance, para 6.10

⁸ Ibid, para 6.16

⁹ Housing Act 1996, sections 206 and 210

have accommodation, case law has established that the authority must consider whether it is suitable for the applicant to continue to occupy the accommodation¹⁰.

7. If, as a result of its enquiries, the authority is satisfied that the applicants are homeless, eligible for assistance, in priority need and not intentionally homeless, it has a duty to secure that accommodation is made available for the applicants' occupation¹¹. The authority ceases to owe applicants a duty only if certain conditions are met¹².
8. When Canterbury City Council offers temporary accommodation as required by the duty described in the paragraph above, it suspends the applicants' application because their circumstances have changed. It remains suspended (meaning that applicants cannot bid under the Council's choice based lettings scheme) until such time as a fresh application is made and has been assessed.
9. The Council generally uses its own housing stock for temporary accommodation. It says it uses bed and breakfast accommodation in emergencies only, and only has about 14 private sector leasing properties.
10. When the authority notifies applicants of its decision on their application, it must also notify them of their right to request a review of the decision within 21 days. A similar right of appeal exists regarding the suitability of accommodation offered as required by the duty described in paragraph 7¹³.
11. Housing authorities are required to have a scheme, in writing, for determining the priorities between applicants. The scheme must also set out what procedures the authority uses when making allocations¹⁴. Such schemes are commonly known as allocations or lettings policies.
12. Canterbury City Council's lettings policy sets out how general applications for housing will be dealt with. Although the policy refers to homelessness applicants it says that they will be dealt with differently due to its legal duties and that further information will be provided if this is relevant to the applicant. The policy also says what size accommodation will be offered to applicants, depending on the size of their households. These space standards are not applicable to homelessness applicants.
13. The Council also has a procedure guide which explains to officers how general housing applications should be assessed.

¹⁰ *R v Hammersmith and Fulham LBC, ex p Duro-Rama* (1983) 9 HLR 71 and *R v Sefton MBC ex p Healiss* (1994) 27 HLR 34, QBD

¹¹ Housing Act 1996, section 193

¹² *Ibid*, section 193(5) onwards

¹³ *Ibid*, section 202

¹⁴ *Ibid*, section 167

14. The Council does not have a written policy for homelessness applicants, saying that it relies, instead, on giving advice verbally during Housing Options interviews. It does have two leaflets, *Homeless decisions – your rights* and *Homeless? Help with finding a place to live*, but these contain very limited information. The Council does not have a procedure guide explaining how officers should assess homelessness applications. The Council says its officers use the Code of Guidance and the legislation for this.