

E1: Council housing repairs

Damp - disrepair - ineffective remedies

Miss Tremayne complained that a council failed to take reasonable action to remedy disrepair and damp conditions in the flat she rented from the council.

The circumstances

- The Ombudsman's investigation established that the flat had windows that were beyond their useful life. The council knew that the only effective remedy would be the replacement of the windows.
- 2. The flat was seriously affected by damp and mould. The estate management officer said it was the worst such case she had seen.
- At one point the council promised in writing to fit replacement windows. It then went back on its promise and assured Miss Tremayne that a dehumidifier would eliminate the problems, even though the council knew this was not the case.
- 4. After three years, Miss Tremayne gave up the tenancy. By that time she could not even sleep in her bed because of mould growth on the mattress.
- The council's environmental health officer reportedly said that conditions in the flat would warrant the service of an abatement notice if the flats had been owned by a private landlord.

The Ombudsman's view

- The Ombudsman said she was appalled at what the investigation revealed. The council's failure caused Miss Tremayne to live in unpleasant and unhygienic conditions for a prolonged period.
- The Ombudsman also found that it took the council three months to complete a repair (a broken kitchen light fitting), which had been categorised as having seven-day priority.

Outcome

- 8. The council agreed to:
- pay Miss Tremayne £6,000 compensation;
- reinstate Miss Tremayne on the housing waiting list with effect from the date of her original application; and
- establish a rolling programme of capital funding to remedy the structural defects in the windows of this block of flats, and any other blocks of similar design.

(Report 00/C/14964)

E2: Council housing repairs

Heating system defective – lack of monitoring system – failure to respond to requests for help

Ms Johnson complained of delay by a council in repairing the central heating and water heating systems in her home.

What happened

- Ms Johnson moved into a council flat. She said that neither the central heating nor the hot water worked from the time she moved into the flat until over a year later, when the systems were properly repaired following her complaint to the Ombudsman.
- 2. As a result, Ms Johnson and her five-year-old daughter endured two winters in a cold flat.
- Before Ms Johnson moved into the flat, the council's contractor fitted a new boiler. But shortly afterwards Ms Johnson complained to the council that the central heating did not work and there was no hot water.
- 4. The contractor replaced some of the parts in the boiler system. The system then worked, but after several hours it broke down again. Similar incidents then occurred a number of times.
- 5. Ms Johnson continued to report the problems to her local housing officer and to the contractor in person, by telephone and in writing.

The Ombudsman's view

- 6. The Ombudsman said that the council should have had monitoring systems in place to check that the new boiler was fully functioning before the flat was let. It should also have had monitoring or follow-up systems in place to ensure that the repairs it undertook subsequently had been effective.
- 7. If an effective monitoring system had been in place, the council would have been aware that, each time its contractors called, they were unable to rectify the problems. This would have removed the need for Ms Johnson to continue to report the problems. Instead the system would prompt the council to take further action, and would have ensured a more co-ordinated and coherent approach to addressing the problems.

Outcome

- 8. The council:
- repaired the heating and hot water systems and checked with Ms Johnson that they were functioning properly;
- undertook to review and overhaul its management and monitoring systems to prevent a recurrence of the problems in this case; and
- agreed to pay Ms Johnson £1,750 in recognition of her loss of amenity and time and trouble in pursuing her complaint.

(Report 01/B/15974)

E3: Council housing repairs

Pre-letting inspection – records – communication

Ms Z complained about conditions in her council property.

New tenancy

- Ms Z was a council tenant. Her property had to be vacated. So, under the council's priority scheme, she was offered a move.
- She accepted the property but, before she moved in, discovered and complained about dampness and other defects.
- The Ombudsman found no evidence to suggest that the property was inspected before it was offered to Ms Z, or that any work was carried out on it. The failure to keep adequate records was maladministration.
- The council's external consultant said that a formal property handover took place. But there was no record on the property file to confirm that, and no details of what the officers observed.
- 5. Some 18 months after Ms Z reported a problem about damp, it had still not been cured. There was no evidence that the council had taken any effective action or instructed its contractors to do so. The Ombudsman commented:

"The council and the contractors seemed to have expended more energy on trying to establish which body was responsible for specific repairs than in ensuring that the repairs were carried out in a timely fashion."

Communication

6. The Ombudsman found there were difficulties in communication between

the council and its contractors. Requests for repairs were either not communicated to the contractors or not acted on. And there was little evidence of any attempt to keep Ms Z informed about what was happening. The Ombudsman commented:

"I am aware of the pressures under which officers work in a busy housing office, particularly at a time of staff shortages, but it is a matter of good practice to ensure that all significant contact is recorded."

7. The Ombudsman also expressed concern at the failure of the council to reply to the investigator's initial enquiry. The Ombudsman pointed out that such failures prevented the timely investigation of complaints.

Outcome

- 8. The Ombudsman found that Ms Z and her family had to live in unsatisfactory conditions for more than a year longer than should have been necessary. That was a significant injustice.
- 9. The council agreed:
- to agree a list of outstanding repairs with Ms Z, draw up a timetable for dealing with them, communicate it to Ms Z and the Ombudsman and, as far as possible, adhere to it;
- to pay Ms Z £1,000 compensation; and
- to review its policies and procedures relating to repairs and void inspections to make sure that, as far as possible, the maladministration identified would not recur.

(Report 01/B/4284)

E4: Council housing repairs

Damage to possessions – complaints procedure

Mr Rock complained that a council failed to repair a drainpipe outside his flat.

Damage

- Mr Rock said that for some years the council failed to repair a blocked and leaking drainpipe outside his flat. The result was damage to the plasterwork, internal decorations, soft furnishings and possessions in his bedroom and sitting room.
- Mr Rock said the council had not compensated him and had ignored his complaints.
- The Ombudsman's investigation found that there was delay by the council in doing the repair and in dealing with Mr Rock's claim for compensation for damaged items.

Complaints

4. The Ombudsman found that the council did not have a proper system for monitoring the progress and outcome of formal complaints. The Ombudsman said that was maladministration. If the council had been operating a satisfactory system at the time, the Ombudsman believed it would have ensured that Mr Rock's claim for damaged items was properly dealt with.

5. The Ombudsman was pleased to note that the council had recently introduced a revised corporate complaints procedure, linked with the complaints procedures of service departments, and including measures for monitoring and evaluating the council's response to complaints.

Outcome

- 6. The council agreed to the Ombudsman's recommendation to pay Mr Rock:
- £300 in recognition of the inconvenience caused by the delay and the time and trouble spent pursuing his complaint;
- £300 towards the cost of washing, repairing or replacing damaged possessions; and
- a decoration allowance of £155.

(Report 01/B/4926)

E5: Council housing repairs

Listed building - delay

Mr X complained that the council delayed unreasonably in repairing his flat.

The property

- Mr X lived in one of six flats in a converted mansion. The mansion was a Grade II listed building.
- The property was built in the mid-nineteenth century and originally consisted of two buildings. It was enlarged and unified by its owner, the Duke of Devonshire, with the help of Sir Joseph Paxton, designer of the Crystal Palace. The property was used to house the Duke's mistress, Lady Hunloke, and her daughter.

The problem

Mr X complained of severe water penetration into the flat from leaks in the roof and from a water tank. 4. Mr and Mrs X could not use two of the bedrooms for more than a year as conditions were damp and unhealthy. They could not use the third bedroom because it had to be used to store furniture from the bedrooms which were damp.

Progress

- The council accepted that the problems had taken an inordinate period of time to resolve, and that Mr and Mrs X had to endure unacceptable conditions much longer than could reasonably be expected.
- 6. The complaint was resolved to the Ombudsman's satisfaction. The council agreed to pay Mr X £2,254 in recognition of the problems, the stress and frustration Mr and Mrs X experienced and their decoration costs. The council spent some £30,000 on major works to the roof of the property and some other external repairs.

(Local settlement 01/B/7832)

E6: Council housing repairs

Property unfit to let – termination of tenancy

Mr Haji complained about the actions of a council in respect of the tenancy of a council flat.

Tenancy

- Mr Haji applied to the council for accommodation for himself and his elderly mother, who was in poor health. Their application was given overriding medical priority. They were offered a ground floor flat.
- 2. Mr Haji signed the tenancy agreement even though the flat was flooded when he viewed it that day. The council carried out work on the waste disposal system which had caused the flood, and other work to repair water damage. Mr Haji called frequently at the council's offices to ask whether the flat was ready. The work took some three months.
- 3. The council said that it contacted Mr Haji several times and asked him to collect the keys. There were no written records of this. Mr Haji's mother was in hospital at that time. The council then wrote to Mr Haji giving him a deadline for collecting the keys at the end of the following working day. When he did not meet this deadline the council served notice to quit.

The Ombudsman's concerns

4. The Ombudsman found that work done to the flat before it was offered to Mr Haji was not effective in preventing the flooding. The council started the tenancy when the flat was not fit to let. There was then a delay in ordering and completing the necessary work. During that time, the council changed Mr Haji's tenancy date without his consent or signature.

- 5. The council gave Mr Haji unreasonably short written notice of its intention to terminate the tenancy. In view of the council's delay in making the flat habitable and the council's knowledge of Mr Haji's mother's illness, it was unreasonable to give him only a few days' written notice.
- The council then omitted to tell Mr Haji that he had the right to pick up the keys and to move in before the notice to quit expired.

Further consideration

7. The council then wrongly told Mr Haji's solicitor that the council would not consider Mr Haji and his mother for further offers of accommodation. It did not write to Mr Haji to correct this error and to tell him what he needed to do to be put back on the housing register and receive another offer.

Injustice

 The Ombudsman concluded that Mr Haji and his mother were caused injustice. Their rehousing was delayed by some 20 months.

Outcome

- 9. The Ombudsman recommended that the council should:
- assess Mr Haji's new housing application without delay and offer him the next suitable property that became available; and
- pay Mr Haji £1,000.

New arrangements

- 10. The Ombudsman was pleased to note that the council made changes to its arrangements with its repairs contractors in order to prevent similar problems in the future. These arrangements included that:
- area housing staff would work from the same building as the contractor;
- the contractor and the council surveyors inspected empty properties together;
- the contractor and the surveyor used a standard specification list to ensure all necessary repairs were covered;

- one housing assistant was responsible for both voids and lettings; and
- appointments were made to see new tenants three to five weeks into their tenancies so that any outstanding problems could be picked up.
- 11. The council reported that performance had improved significantly.

(Report 01/A/994)

E7: Homelessness

Bed and breakfast accommodation – complaints – delay – housing benefit problems

Ms Phillips complained about the way a council dealt with her housing needs as a homeless person.

The circumstances

- The council accepted a duty to house Ms Phillips as she was unintentionally homeless and in priority need. She had one small child, and her second child was born shortly afterwards.
- The council placed Ms Phillips and her children in a bed and breakfast hotel. After some months the council moved her to a second hotel. She lived there until she moved to permanent accommodation, almost three years after the council agreed to house her. She applied for housing benefit throughout the time she was placed in bed and breakfast accommodation.
- Ms Phillips complained that the council did not deal properly with her complaints about the accommodation provided to her; and delayed unreasonably in determining her claims for housing benefit.

What the Ombudsman found

- 4. The Ombudsman found that the council did not record the complaints from Ms Phillips about the conditions in the first hotel and did not consider them properly. That delayed her move to the second hotel by two months.
- The council breached the law in failing to notify Ms Phillips of her right to request a review of the suitability of the accommodation. That delayed her move to a more suitable room by seven months.

6. The council failed to follow its normal practice of attempting to move working homeless families into self-contained accommodation. The council also misapplied its policy of suspending homeless applicants from active consideration for self-contained temporary accommodation or permanent housing. The policy was that it should only suspend applicants when action was being taken to evict them from their current accommodation because of rent arrears. That was not the situation with Ms Phillips. Because of these faults she lived in hotel accommodation rather than self-contained accommodation for a year longer than she need have done.

Housing benefit

- The Ombudsman also found faults in the council's handling of Ms Phillips' housing benefit claims. There was an unreasonable delay in dealing with her three claims which amounted to a total of 20 months
- 8. The Ombudsman said that the cumulative effect of all these faults was that Ms Phillips had to spend time pursuing her complaints through the council's complaints procedure, with a council member and to his office. And all at a time when she was working full time and coping with two small children in very difficult living conditions. That justified compensation of £250 for her time and trouble. In total, the Ombudsman recommended compensation of £2,700.

(Report 00/A/5127)

E8: Management

Tenant with disabilities – installation of security gates and intercom – lack of consultation – difficulties caused to tenant

Mrs Branch complained about the actions of a council about changes at the block of flats where she lived.

What happened

- Mrs Branch was an elderly, disabled person who lived alone in a council flat.
 She had problems with her eyesight and could not read letters or plans.
- 2. The council decided to install security gates and an intercom door entry system at the entrances to the block of flats.
- 3. Mrs Branch complained that the council did not take proper account of the difficulties she would encounter as a disabled person. Her main concerns were the difficulties she was likely to encounter in using the gate while on her mobility buggy, and in operating the intercom entry system. The intercom telephone was installed in her flat without prior consultation and in a place which was not convenient for her to reach.

Consultation

- 4. The council consulted the tenants' association. It did not carry out individual consultation with tenants about the proposed scheme. The council did not have a system for identifying tenants who were not members of the association, or those who were elderly or disabled and might have special needs.
- 5. The tenants' association wrote to Mrs Branch about the plans. But she could not read the letter.
- 6. The Ombudsman observed that the council had a range of means, through its housing support officers and social services department, to establish which

tenants might have special needs. It employed social workers and occupational therapists who were trained in explaining complex issues to tenants with special needs and in showing sensitivity to tenants' concerns.

Mrs Branch had a social worker and the council was aware that she had special needs. But the council did not use its resources properly to establish how she would be affected by the proposals and how her special needs could be met.

Water penetration

- Mrs Branch also complained that the council did not deal properly with a long-standing problem of water penetration which damaged her bedroom furniture and carpet.
- 8. The Ombudsman found that the council had been aware of the problem for some time and knew that Mrs Branch's flat was the worst affected. But the council had not recognised the particular urgency of identifying and remedying the structural faults.

Outcome

- 9. The Ombudsman commented:
 - "This complaint has raised some important issues about the way in which the council handles the needs of disabled tenants who are likely to be particularly affected by housing management changes and by structural faults in council properties."
- 10. The council remedied the problem with the gate. It agreed that the intercom telephone was in an unsuitable position and would be moved. But no action was taken to do that.

- 11. The Ombudsman recommended that the council should:
- pay Mrs Branch £850 compensation;
- re-site the intercom in her flat;
- conclude its examination of water penetration problems and draw up a plan for remedial action with a specific timetable; and
- review its housing management arrangements so as to ensure that the needs of tenants with disabilities could be properly taken into account when changes to council properties were designed and implemented.

(Report 01/B/12657)

E9: Nuisance from neighbours

Delay - failure to follow policy - inadequate handling of complaint

Mrs Peel complained that a council failed to take appropriate and effective action over complaints about harassment, nuisance, threats and other unneighbourly behaviour of a family living close to her.

The Ombudsman's view

- 1. The Ombudsman commented:
 - "I am aware of the difficulties which councils face in ensuring that, before they instigate legal action against an allegedly troublesome tenant, they have sufficient evidence to support that action in court."
- The Ombudsman accepted that, for an initial period, the complaints were not at a level of seriousness or frequency which would have justified the council in thinking that it could take formal action against the neighbour, Ms Austin.
- 3. But there was then further evidence from Mrs Peel and other residents who had complained, and police reports and statements. The Ombudsman found that Ms Austin's family caused serious and sustained nuisance and disturbances over a long period. It was maladministration by the council not to take positive action.
- 4. Ms Austin had a large family and was in overcrowded conditions. The council said that it was seeking to resolve the neighbour nuisance problem by rehousing the Austin family. But the Ombudsman saw no evidence that any substantial and determined efforts were made to identify suitable properties, and said the fact that the council failed to follow its stated course of action in any positive way was maladministration.

- 5. After the council identified breaches of the tenancy agreement by Ms Austin and her family, the council did not give her a date to rectify the problems or ask neighbours to keep diaries of events. Both of those courses of action were requirements of the council's policy.
- 6. The council served a notice of seeking possession on Ms Austin, but there was no reduction in the number of breaches of the tenancy agreement. And it was almost a year before the council started legal action.

Complaints procedure

7. The Ombudsman was also critical of the way Mrs Peel's complaint to the council was handled. The complaint was passed to an inexperienced officer who did not understand the complaints procedure. Also, the council did not have in place an effective system to monitor complaints.

Outcome

 The Ombudsman recommended that the council should pay Mrs Peel £500 in recognition of her prolonged upset and distress caused by her unnecessarily long exposure to the activities of the Austin family.

(Report 01/C/1936)

E10: Nuisance from neighbours

Noise nuisance – investigation inadequate – roles of housing and environmental health officers

Mr and Mrs Jones complained that a council failed to take action about noise nuisance from their neighbour.

Noise nuisance

The neighbour was a council tenant.
 Mr and Mrs Jones complained to the council over a period of years about slamming doors and the playing of loud music up to four o'clock in the morning.

Lack of investigation

- 2. The Ombudsman observed that the council's procedures for dealing with neighbour nuisance provided a sound basis for dealing with complaints. But here officers seemed to take little effective action, although the procedure set out several potential avenues to follow. Little effort was made to investigate the complaints from Mr and Mrs Jones, although the evidence before the Ombudsman suggested that they submitted a large amount of evidence of noise nuisance to the council. The council did not appear to treat the complaints as being particularly serious.
- 3. The Ombudsman found that these shortcomings were maladministration. All the evidence available to the council suggested that there was a problem which it needed to investigate. On one occasion an environmental health officer visited and found that the level of noise was unacceptable. He offered to make a witness statement but the estate manager declined the offer and took no further action for about three months.

Arrangements

4. The council had a policy of dealing with noise nuisance in council-owned properties through its tenancy

agreement, and not through its environmental health service, except for emergency cases. The Ombudsman commented:

"It is for the council to decide how to spend its resources and organise its services. But I would question whether in this case the council's policy decision has led to the delivery of an effective service. Environmental health officers are professionally able to say whether a statutory nuisance exists. Housing officers do not have this training. But here housing officers are expected to deal with all instances of noise nuisance. My investigation into this complaint shows that it is questionable whether the council is able to deliver this service effectively as it is now organised."

 The Ombudsman recommended that the council should review its procedures in respect of the roles and resourcing of its housing and environmental health services in dealing with noise nuisance from council-owned properties.

Injustice

- 6. The Ombudsman could not say that if the council had taken action more promptly it would have been in a position to abate the noise nuisance by evicting the neighbour. That would have been a matter for the courts to decide. But it was clear that Mr and Mrs Jones suffered an understandable sense of frustration at the council's failure to carry out an effective investigation into their complaints and take action at an early stage which might have persuaded the neighbour that it was taking the problem seriously.
- The Ombudsman recommended that the council should pay Mr and Mrs Jones £750 compensation.

(Report 02/B/3300)

E11: Nuisance from neighbours

Introductory tenant – failure to take effective action

Mrs Archer complained that a council failed to take effective action to deal with nuisance caused by a tenant of the council.

Complaint

- Mrs Archer and her husband owned their home. The property opposite was a council tenancy. The tenant was Ms Lynn, who held an introductory tenancy.
- Mrs Archer made numerous complaints to the council about antisocial behaviour by Ms Lynn and her children. The allegations included abuse, vandalism, screaming and fighting between Ms Lynn and her visitors, and noise from visitors in the early hours.
- 3. Mrs Archer complained that the council failed to take effective action.

Investigation

- 4. The Ombudsman's investigation showed that Mrs Archer's complaints were justified. If effective action had been taken by the council, the introductory tenancy could have been brought to an end and Ms Lynn would have been evicted a year earlier than she was.
- 5. The Ombudsman said the council failed to address Mrs Archer's complaints in a reasonable and proper manner. The council took almost no action to curb the behaviour of Ms Lynn and her family or to protect the interests of other local residents. The council accepted that, if the case had been better managed, there was every possibility that sufficient evidence would have been gathered to warrant not confirming the introductory tenancy.

- 6. Once the tenancy became secure, the council's case in any possession proceedings needed to be significantly stronger. That placed a much greater burden on Mrs Archer's evidence than would otherwise have been the case. That increased both her real and perceived danger of reprisals from her neighbour.
- 7. The Ombudsman found that the council's maladministration caused Mrs Archer and her husband unnecessary and prolonged distress, disturbance and anxiety; contributed to Mrs Archer's ill health; led her to believe that she could no longer safely remain in her home; and caused her financial loss because of damage to her property and difficulties in selling her home.

Outcome

- 8. The council agreed to:
- rehouse Mr and Mrs Archer in their area of choice;
- compensate Mrs Archer for the reasonable costs of selling her house and moving to another property; and
- pay Mrs Archer £1,000 compensation for the distress she and her husband were caused.

(Report 02/C/1779)

E12: Right to buy

Delay - improper decision - inappropriate valuation date

Mrs Fraser complained about the way a council considered the application from her and her late husband to buy their home under the 'right to buy' scheme.

The circumstances

- Mr and Mrs Fraser were both employees of the council. Both worked in the leisure services department and had done so for many years.
- They lived in a house which was within the grounds of a council-owned park.
 They enjoyed a rent reduction in recognition of the fact that they acted as a contact for the emergency services in connection with the park.
- 3. The Ombudsman recognised that the right to buy application in this case was not straightforward. But, the Ombudsman said, the investigation uncovered a sorry saga in the way the council dealt with an application to buy their home from two of its employees. The Ombudsman was pleased to note that the council accepted that it had acted badly.

Initial refusal

4. The Ombudsman commented:

"It is perfectly proper and appropriate for a council to determine whether a tenant's application to buy his or her home must be admitted. The onus is on the council to consider whether the tenancy is a secure tenancy and whether any obvious specific exceptions to the right to buy apply in any particular case. There are time limits by which such questions must or should be determined by the council."

- 5. It was 13 months after the application was submitted before the council notified Mr and Mrs Fraser that the application was refused. That was 12 months longer than the timescale laid down in legislation. The Ombudsman was also critical of the way the decision was made. She commented:
 - "Councils may make decisions which an individual or the public at large disagree with. That in itself is not maladministration. However, such decisions should not be perverse nor should they be made without full and proper consideration of all the relevant information and the benefit of any necessary advice or expert opinion, and they should be in accordance with statutory requirements."
- 6. The evidence did not support the council's contention that it sought and obtained legal advice, and that this confirmed that the status of Mr Fraser's tenancy excluded him from the right to buy scheme. On the contrary, an officer of the council, who was charged with the responsibility for clarifying this point, said that the advice he received, which was not recorded or retained on the council's files, indicated that the nature of the tenancy did not exclude Mr Fraser from the scheme. The council's assertion that it was valid to exclude him from the right to buy on the basis of a particular part of the legislation was wrong, and it was not compatible with the actual reasons given for refusing his application.
- 7. It seemed to the Ombudsman that there was little doubt that the council's reluctance to sell the property was based to a very significant extent on irrelevant matters. These included adverse publicity, political considerations and dismay at the level of profit realised by a

- previous successful right to buy applicant. There were also indications that personal animosity between Mr Fraser and a senior officer in the leisure department could have been involved in frustrating the application.
- 8. It seemed to the Ombudsman that, at least at some time in the process, the leisure department acted, or was afforded an opportunity to act, as if it was within its power to decide whether or not to agree to the sale irrespective of the council's statutory obligations.

Other criticisms

9. The Ombudsman was also critical of the fact that, when its initial decision was challenged by Mr and Mrs Fraser, the council took a further 14 months to reconsider the application before it conceded that they were indeed eligible for the right to buy scheme. 10. The council was then further at fault by determining the price at which the property would be sold at the date of the council's final decision on eligibility, rather than at the date of the original application.

Outcome

- 11. The council agreed to:
- progress the purchase on the basis of valuation at the time of application;
- reimburse the rent Mrs Fraser paid between application and date of purchase; and
- pay her £500 compensation.

(Report 01/C/14338)

E13: Right to buy

Settlement not effective - delay and errors

Mr Eyre complained about the way a council dealt with his application to buy his home under the 'right to buy' legislation.

Previous settlement

- 1. Mr Eyre had earlier made a complaint to the Ombudsman and the council had agreed to settle that complaint. Mr Eyre then complained that the council did not implement part of the agreed settlement that it would fast track his right to buy application and that there were further and unreasonable delays in the completion of the sale.
- The council had previously agreed to complete the sale within three months of Mr Eyre accepting the council's offer.
- The Ombudsman said that it was important that, if a council agreed to settle a complaint made to her, the council should put in place systems and procedures to ensure that this was carried out. That did not happen in this case.

Delays and errors

- After Mr Eyre accepted the council's offer the sale was not completed until 10 months later. That meant he had to pay rent for some seven months longer than he should have done.
- 5. The council made a number of mistakes, including giving the wrong title number on documents; using an incorrect form; giving information to Mr Eyre's solicitor about highways matters which lacked clarity; and sending paperwork to Mr Eyre's solicitor which was wrongly addressed and did not arrive.

Outcome

6. The Ombudsman recommended that the council should refund Mr Eyre the rent he paid unnecessarily for some seven months, and pay him further compensation of £250 for his time and trouble in pursuing the complaint.

(Report 01/A/3410)

E14: Succession to tenancy

Denial of right to succeed - delay in seeking legal advice

Solicitors acting on behalf of Ms Gable complained that a council failed for a long period to recognise her right to succeed to the tenancy of a council property on the death of her mother.

The circumstances

- Ms Gable lived with her mother for 25 years in the council house of which her mother was the tenant. Her mother died and, at that time, Ms Gable was an in-patient in a psychiatric hospital. She was an informal patient who returned home at weekends.
- A housing officer decided that
 Ms Gable's residence in hospital affected
 her succession rights and that she was
 not entitled to succeed to the tenancy.
- 3. The council took steps to seek possession of her home and agreed to offer her alternative accommodation. Ms Gable's solicitor disputed the council's view that her residence in hospital nullified her rights to succeed to the tenancy. He referred to case law in support of his argument and suggested that the council should seek its own legal advice.

- 4. The council's housing officers did not seek legal advice. The Ombudsman said that failure was maladministration.
- 5. The Ombudsman said it was clear that officers should have sought appropriate legal advice about Ms Gable's right to succeed to the tenancy of the property long before the question of arranging a court hearing for possession.
- 6. Eventually, more than a year after the death of Ms Gable's mother, the council did seek legal advice. That confirmed that Ms Gable did have the right to succeed to the tenancy. In the meantime, she was caused extreme distress and uncertainty.

Outcome

 The council agreed to pay Ms Gable compensation of £2,000. Also, the council reviewed its procedures and introduced liaison arrangements between local housing teams and the legal department.

(Report 01/C/3919)

E15: Transfers

Racial harassment - lack of action by council - failure to investigate complaint

Ms Flannigan complained that a council failed to rehouse her and her family in accordance with its policy of giving priority to families subject to racial harassment, and that it did not properly deal with her complaint.

What the Ombudsman found

- Ms Flannigan's attempts to persuade the council to help her spanned a period of more than three years. She reported incidents of racist abuse. Her partner's car was vandalised and a handwritten note left at the time explicitly linked this incident with threats to harm her children. She told the council that her elder daughter had been attacked. Under the council's own definition of priorities, Ms Flannigan's complaint should have merited immediate investigation by the tenant management support unit.
- The Ombudsman found that
 Ms Flannigan's complaints were wholly
 justified. Despite the full information
 Ms Flannigan supplied to the council
 about her housing needs and the racist
 abuse and threats to her family on a
 number of occasions, the council took
 no action to deal with the matter. In
 addition, her complaint was never
 properly investigated.

Mistake in registration

- Ms Flannigan's original application for rehousing was on the basis of overcrowding. She pointed out that there was no room in the house for her partner, who was having to live separately in a rented room.
- 4. The council wrongly registered the application. The fact that the family were

- split was not noted, and Ms Flannigan was not advised that on those grounds she could apply to the homeless persons unit for the family to be housed together.
- The incorrect priority rating was not noticed until the Ombudsman's investigator pointed it out during interviews with council officers. By the time the Ombudsman published the report, still no action had been taken to re-register Ms Flannigan with the correct priority.

Racial harassment

- 6. The council had adopted a formal policy for dealing with families targeted by racist abusers and had resourced its tenant management support unit accordingly. However, the Ombudsman found that, when dealing with Ms Flannigan's complaint, personnel at all levels of the organisation appeared to have been more concerned to defend the council's inaction than to investigate what was happening to Ms Flannigan and her family.
- 7. The Ombudsman said she was not impressed with the administrative systems of the tenant management support unit or the attitude of its manager. In this case the unit seemed to have excelled at:
- losing letters;
- misunderstanding the nature of complaints;
- sending out incomplete documents;
- omitting to send forms out;
- repeatedly promising action but taking none;

- denying agreements it had made with other officers to take action; and
- blaming tenants for its own mistakes.
- The Ombudsman said that the manager's sole priority seemed to have been to defend his unit's inaction.
 Ms Flannigan was treated appallingly by the council.

Outcome

- 9. The council accepted that serious errors had been made. The council agreed to:
- pay Ms Flannigan £1,000 compensation;
- appoint a senior manager to investigate her complaints of racist abuse;
- re-register her housing transfer application correctly with the proper level of priority backdated to the time of the original application;

- provide training to the manager and staff of the tenant management support unit and the council's corporate complaints unit on how to deal properly with complaints;
- ask its internal audit section to investigate the administrative systems operating in the tenant management support unit and implement any changes recommended to correct identified faults; and
- review its priority system for dealing with complaints of racist abuse and harassment.

(Report 00/A/18666)

E16: Transfers

Confusion about procedures – statutory overcrowding – medical priority – liaison between departments

Mrs Yoke complained about the way a council handled her request for a transfer to larger accommodation.

Circumstances

- Mrs Yoke lived in a three bedroom council property with her five children. She asked for a transfer to larger accommodation. It was several years before she was transferred.
- The Ombudsman found that there was maladministration by the council in the way in which it considered Mrs Yoke's application for a transfer.

Records

 There was no record of an important meeting with a housing officer, when Mrs Yoke said she made significant changes to the details of her application.

Medical priority

- The council's policy provided for additional priority to be given on medical grounds. Two of Mrs Yoke's children had significant medical problems, and she applied for priority on that account.
- 5. There was confusion about the procedures for handling medical information submitted in support of transfer applications. One senior officer understood that the medical adviser had to request reports from GPs or consultants directly, and that it was not the duty of the housing officer to pass on any such information. On the other hand, another senior officer said it was normal practice for supporting letters to be attached to the medical consent form which was sent

- to the medical adviser. The form gave no guidance on the point.
- 6. Although Mrs Yoke sent in letters from her GP, a social worker and a consultant physician, these letters were not sent to the council's medical adviser. The medical adviser recommended priority 2 on a six-point scale. But she said that, if she had seen the three supporting letters at the time, she would probably have given the family priority 1.

Social services referral

7. There was provision in the council's policy for management transfer on the basis of a referral from the social services department. A social worker involved with the family was unaware of this, and so there was inadequate consideration of the possibility of making a social services referral under the management transfer scheme.

Statutory overcrowding

8. The council delayed for more than two years in registering Mrs Yoke for a transfer on the grounds of statutory overcrowding.

Injustice

- The Ombudsman was satisfied that it was highly likely that Mrs Yoke lived in unsuitable accommodation for much longer than necessary.
- 10. He recommended that the council should pay Mrs Yoke £1,250 for that injustice and her time and trouble in pursuing her complaint.

Liaison

11. The Ombudsman added:

"I recommend that the Council takes steps to ensure that the liaison between the housing and social services departments is improved and that each department has a reasonable understanding of the other's responsibilities. The Council should act as a corporate body."

(Report 99/A/5375)