

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

**Investigation into a complaint against
London Borough of Lambeth
(reference number: 16 005 834)**

15 August 2017

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

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

Investigation into complaint number 16 005 834 against London Borough of Lambeth

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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

Ms A - the complainant

Report summary

Housing: homelessness

Ms A complains about the way the Council dealt with her homeless application and that it kept her in unsuitable accommodation for over a year.

Finding

Fault found causing injustice and recommendations made.

Recommendations

Towards the end of our investigation the Council arranged alternative accommodation for Ms A and this is a partial remedy.

In addition, to remedy the injustice caused, we recommend within three months, the Council:

- pay Ms A £3,000 for the delay in securing appropriate accommodation, and for her distress and time and trouble in pursuing matters; and
- pay Ms A £1700 as a contribution towards the storage costs she incurred before moving to appropriate accommodation.

Introduction

1. Ms A complains about the way the Council handled her homeless application. She complains the Council:
 - delayed unreasonably in making a decision on her application;
 - kept her in unsuitable accommodation for over 20 months;
 - did not act to review the suitability of the accommodation despite her complaints about it and the presentation of supporting medical evidence and
 - failed to tell her about the help it could provide in storing her belongings.

Legal and administrative background

2. 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*)
3. When someone applies to a council for accommodation and it has reason to believe they may be homeless or threatened with homelessness, a number of duties arise, including a duty to make enquiries and a duty to secure suitable accommodation for applicants who may be eligible for assistance and in priority need pending the outcome of the enquiries. This is referred to as 'interim' accommodation.
4. When carrying out these duties, councils must have regard to the Homelessness Code of Guidance issued by the Secretary of State. The Code recommends that councils aim to decide an application within 33 working days.
5. Councils also have a duty to arrange the storage of possessions when someone is homeless or threatened with homelessness and their goods are at threat of damage or loss and no suitable provisions have been made. They may make reasonable charges for such storage. (*Housing Act 1996, section 211*)

How we considered this complaint

6. This report has been produced following the examination of the relevant documents. The complainant and the Council were given a confidential draft of the report and invited to comment. The comments received were taken into account before the report was finalised.

Investigation

7. Ms A fled to Lambeth because of domestic violence from her husband in another London Borough. Her younger child was with her, while her teenage daughter, who has mental health problems, stayed with her father to continue her studies.
8. Ms A made a homeless application in June 2015 and the Council placed her and her younger child in interim bed and breakfast accommodation in Croydon while it began its enquiries in relation to her application. The accommodation was furnished and self contained. Ms A says she was unaware the Council could arrange to store her possessions and she made her own arrangements. There is no evidence this was raised with Ms A.
9. Shortly after having been placed in the accommodation, Ms A's health visitor told the Council the accommodation was unsuitable because of the younger child's autism. The Council says it told the health visitor to send an email outlining her concerns which would then be sent on to the Placement Team, but it did not receive anything further. Ms A says that, after contacting the Council, the health visitor told her she would contact her as soon as she heard back from the Council.
10. Ms A says she submitted four pieces of medical evidence between July and October 2015 but this was not taken into account by the Council and it says it has no record of the evidence. In August, two months after Ms A had made her homeless application, the Council undertook some initial checks in relation to it.
11. In September the Council received a letter from the other London Borough which said it was supporting Ms A with her request to move closer to her teenage daughter, about whom it had concerns because of her mental health. The other London Borough told the Council that Ms A had said her current accommodation was unsuitable for her autistic child.
12. The Council took no action having received this letter and, as it did not contact Ms A, she went to the housing office in October to find out what was happening on her case. The housing officer on duty gave her general advice that if she could find her own private rented accommodation in the other London Borough's area the Council would help her under its "self source" scheme. Ms A says when she returned a few days later to find out more, a different officer told her not to look for properties before a decision had been made on her homeless application and that she could only look in Lambeth because her housing benefit could not be transferred to another borough. She also says the Council gave her conflicting information about the impact finding her own accommodation would have on her priority for housing.
13. To progress Ms A's homeless application the Council required confirmation of her husband's work status, on which her eligibility for housing assistance was based. Ms A says she provided the information she could but, as it was not detailed enough, the Council asked her solicitors to obtain the required information. The solicitors told the Council, as Ms A had previously, that they would be unlikely to get it because the

husband was deliberately not co-operating and that neither they nor Ms A could get the information without his consent.

14. At the end of November the other London Borough wrote on Ms A's behalf to formally complain to the Council about the way her homeless application was being dealt with and the time it was taking to come to a decision. The complaint said Ms A had yet to be allocated a case worker, that she had been into the housing office on at least seven occasions, that she and her younger child had been living in one room for over six months and that she wanted to move closer to her daughter.
15. The Council responded to the complaint in December. It apologised that Ms A had been unable to get a response from its housing officers and explained this was due to an extreme shortage of staff. It said that her case had now been passed to a named officer who was in the process of completing his investigations and that he would update her on the progress of her case. The officer did not contact Ms A and the Council took no further action to progress her case.
16. In April 2016 Ms A's solicitors contacted the Council to chase the decision on her homeless application. They repeated that her husband was not co-operating and asked that the Council assist Ms A in moving closer to her teenage daughter. They included a copy of a report from the other London Borough's Social Services which recorded the daughter's deteriorating mental health and self harming problems, and that she wanted to stay with her mother but could not do so. The Council reviewed Ms A's case and decided, although it had not been able to confirm her husband's work status, it would give her the benefit of the doubt and assume she was eligible for assistance. The Council accepted Ms A as homeless and that it had a duty to assist her.
17. In September Ms A's solicitors wrote again to the Council. They noted Ms A had still not been moved from the accommodation she had been placed in originally, and that the Council had not addressed the issue of her moving closer to the other London Borough to be near her teenage daughter.
18. The Council said it had no record of Ms A or her solicitors raising the issue of the suitability of her accommodation, but during the course of our investigation the Council identified correspondence from the health visitor from 2015 where concerns were raised. It now accepts the accommodation was likely to have been unsuitable for Ms A's needs.
19. At the beginning of 2017 the Council offered Ms A two private rented properties, one which she declined because she thought it was not big enough to accommodate her daughter's visits, and one the landlord subsequently withdrew. At the end of March Ms A viewed a third property for which she has now signed a tenancy. Meanwhile, the cost of storing her possessions has been about £3400.

Conclusions

20. The statutory Code says councils should aim to make homelessness decisions within 33 days. Ms A applied as homeless in June 2015 and it took the Council just short of a year to make its decision. Although the Code's timeframe is an aim, to take such an excessive

time is clearly fault. It delayed for two months until August before taking any action at all on the application. Despite its response to her complaint in December 2015, it took no action between November 2015 and April 2016, when action appears to have been prompted by Ms A's solicitors' letter.

21. Having then made its decision and accepted Ms A as homeless, the Council took no further action until the beginning of 2017, apart from advising her it would assist with a deposit and liaise with the landlord if she found her own suitable private rented accommodation.
22. The Council has referred to staff shortages to explain its delay. However, this does not adequately explain the long delay in allocating a case worker nor the period of nearly a year it took to decide to give Ms A the benefit of the doubt in relation to her eligibility for assistance. This decision could have been taken much earlier as the Council had been told at the outset that her husband was not co-operating and it knew she had fled domestic violence.
23. For over 20 months Ms A remained in self contained bed and breakfast accommodation with her younger autistic child. This had been highlighted from the outset as being unsuitable for the child's needs and was later accepted by the Council as likely to have been so. The Council has said Ms A had been aware of her right to request a review of the suitability of the accommodation under s202 of the Homelessness Act 2002. But that right applies only once a homelessness duty has been accepted by the Council (here, in April 2016) and I am satisfied that she raised the unsuitability of her interim accommodation during her numerous visits to the housing office previously. The unsuitability of the accommodation was also raised by the other London Borough in September 2015 and in the complaint submitted on her behalf in November, but the Council took no action. Bearing in mind the lack of action on other evidence, I accept on the balance of probabilities that the Council received medical evidence from Ms A. Her solicitors sent a copy of the report on her teenage daughter's deteriorating mental health which also does not appear to have been considered. It was fault that the accommodation provided was unsuitable.
24. When Ms A went to the housing office twice in October 2015, still without a case worker four months after making her application, she received conflicting and confusing advice about finding her own accommodation and about the impact doing so would have on her banding priority. This too was fault.
25. Ms A did not raise the issue of the storage of her belongings with the Council before she made her own arrangements. The Council had no notice of the matter, and even if a duty had arisen for it to store them, Ms A would still have been charged the full cost of the storage. So I cannot conclude there was fault causing injustice here in failing to tell her about help it could provide in storing her belongings.
26. Ms A made her own storage arrangements and would have had storage costs even if there had been no fault by the Council. However, she had to pay these costs for far longer than she would have had to if there had been no fault by the Council in delaying the decision on her homelessness application and the subsequent offers of accommodation.

Decision

27. There was fault by the Council which caused Ms A injustice. It delayed too long allocating her a case worker and in making its decision on her homeless application. Meanwhile, it kept her in unsuitable accommodation for over 20 months and failed to review the suitability of the accommodation despite her requests it do so and despite the presentation of supporting medical evidence.

Recommendations

28. 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 or Cabinet and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
29. Towards the end of our investigation the Council arranged alternative accommodation for Ms A and this is a partial remedy.
30. In addition, to remedy the injustice caused, we recommend within three months, the Council pay Ms A £3,000 for the delay in securing appropriate accommodation, and for her distress and time and trouble in pursuing matters.
31. We also recommend within three months the Council pay Ms A £1700 as a contribution towards the storage costs she incurred before moving to appropriate accommodation.