

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

**Investigation into a complaint against
Cornwall Council
(reference number: 17 005 652)**

31 August 2018

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.

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

Mr B	The complainant, a child in 2016
Mrs C	Mr B's mother, who represents him
Officer A	Housing officer
Officer B	Social worker
Officer C	Social work manager
Officer D	Social worker
Officer E	Family worker
Officer F	Social work manager
Officer G	Youth homelessness officer

Report summary

Children's social care

Mrs C complains on her son's (Mr B) behalf that social services staff left him in a tent and a static caravan for several weeks in the summer of 2016 when he was addicted to drugs and homeless aged 17, without properly assessing if he could make decisions about his own safety. She complains this put him at risk and worsened his already poor mental health.

Finding

Fault found causing injustice and recommendations made.

Recommendations

To remedy Mr B's injustice, we recommend the Council, within one month of the date of this report:

- apologises to him for the fault found; and
- pays him £1000 for the effect on his mental health of placing him in unsuitable accommodation, £1,000 for his lost opportunity and £500 for placing him at risk without properly assessing whether he was able to freely consent to the arrangements the Council made for him and for failing to follow up his report of a sexual assault, making £2,500 in total.

To remedy Mrs C's injustice, we recommend the Council, within one month of the date of this report:

- apologises to her for the fault found; and
- pays her £1,000 for the severe distress its actions caused her in the summer of 2016, £250 for the frustration of having to chase the Council for information and £250 for her time and trouble in pursuing her complaint, making £1,500 in total.

To prevent a recurrence of these failings we recommend the Council, within three months of the date of this report:

- reviews its policies and procedures for accommodating homeless 16 and 17 year-olds to comply with statutory guidance and to ensure bed and breakfast accommodation, static caravans and tents are never considered suitable accommodation for such young people. It should also ensure where homeless young people refuse accommodation, it considers if there is any reason why it should not treat their wishes as definitive rather than assuming so. It should also record the reason for its decision to accept the young person's refusal;
- draws up an action plan to ensure there is sufficient suitable accommodation available for homeless young people in Cornwall;
- arranges staff training for those who work with homeless young people to ensure they are aware bed and breakfast accommodation, static caravans and tents are never suitable accommodation for homeless 16 and 17 year-olds; and

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- arranges staff training to ensure there is a proper recorded decision about possible risk of significant harm in all cases where the Council receives a safeguarding referral involving any child or young person under 18, including reports of child sexual exploitation (CSE).

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children's Services and Skills (Ofsted), we will share this report with Ofsted.

The complaint

1. The complainant, whom we shall call Mr B, is represented by his mother, Mrs C. She complains on his behalf as well as her own that the Council:
 - failed to accommodate Mr B when he was a homeless child suffering from mental ill health;
 - took no action when Mr B reported he had suffered a sexual assault;
 - failed to give her copies of Mr B's assessments, to invite her to meetings or to keep her informed;
 - put her under pressure to accommodate Mr B when this was impossible due to the risk he posed to her foster children; and
 - failed to deal properly with her complaint.

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. The Children Act 1989 applies to young people under the age of 18. It defines a Child in Need as one "who is unlikely to achieve or maintain a reasonable level of health or development, or whose health and development is likely to be impaired, without the provision of services". Councils with social care responsibilities can carry out statutory assessments of Children in Need and draw up Child in Need Plans for them under s.17 of the Act. Cornwall is a council with social care responsibilities.
4. Where councils with social care responsibilities receive referrals about maltreatment or risk to a child, or concerns arise while providing services, they must make enquiries to find out what is happening. According to *Working together to safeguard children, 2015*, which is statutory guidance issued under the Children Act 1989, they must do this within one day of receiving the referrals. Councils have a duty to make enquiries under s.47 of the Act if they have reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm. This is to enable them to decide if they should take any action to safeguard and promote the child's welfare. Where such grounds arise and the council requests it, other parts of the council and those in other organisations such as the NHS have a duty under s.27 of the Act to assist the council.
5. *Working together to safeguard children, 2015* states that, "Whenever there is reasonable cause to suspect that a child is suffering, or is likely to suffer serious harm there should be a strategy discussion involving local authority children's care (including the fostering service, if the child is looked after), the police, health and other bodies such as the referring agency. This might take the form of a multi-agency meeting or phone calls and more than one discussion may be necessary. A strategy discussion can take place following a referral or at any other time, including during the assessment process."
6. Some children may be lost or abandoned, or the person who has been caring for them is prevented from providing them with suitable accommodation and care. In

such cases, councils with social care responsibilities have a duty under s.20 of the Children Act 1989 to accommodate Children in Need in their area.

7. Statutory guidance published in April 2010, *Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation*, lays out the duties of housing and children's services departments to work together to ensure 16 and 17 year-olds are not left on the streets. The government published new guidance in April 2018 that re-states these duties. However, we have used the 2010 guidance as it applied at the time of the events of the complaint.
8. The 2010 guidance states that bed and breakfast accommodation is never suitable and councils should ensure they have a sufficient supply of accommodation options for homeless young people. This guidance also states at 3.41, "Where a young person says they do not wish to be accommodated, a local authority should reach the conclusion that the young person's wishes are decisive only as part of an overall judgement of their assessed welfare needs and the type and location of accommodation that will meet those needs."
9. Councils should always consider the views and wishes of children or young people, but they must balance these views and wishes against the child's age and understanding. While it would be usual for a council to accord with the wishes and feelings of a 16 or 17 year-old, there are circumstances where they should consider if the young person is able to properly give their views. Mental illness and child sexual exploitation (CSE) and other circumstances where the young person is under duress all create conditions where a young person might not be able to properly express their wishes.
10. Cornwall Council has a housing protocol to cover 16 and 17 year-olds. This protocol came into effect in April 2015. It states that where there is a concern that a young person may be at risk of harm, the housing department must contact the Multi Agency Referral Unit (MARU). The responsibility for ensuring the young person's safety and accommodation then passes to children's services. The protocol provides for assistance via the s.17 duty under the Children Act 1989 if the young person declines accommodation. This assistance can include the offer of accommodation.
11. We published a focus report in October 2013, [No Place Like Home](#). This highlighted the fact that councils were placing homeless young people in unsuitable accommodation, giving an example of a 16 year-old forced to live in a tent.
12. We returned to the issue in December 2017, publishing a further focus report, [Still no place like home?](#) This highlighted continued failings by some authorities in the provision of suitable accommodation for homeless people, and it shared learning from our investigations to help avoid similar faults.

How we considered this complaint

13. We have produced this report after examining the relevant files and documents and interviews with officers of the Council. Both parties have had the opportunity to comment on a draft of this report and we have considered their comments.

What we found

Relevant background

14. Mr B left his mother's care in early 2014 and moved to live with his father in Cornwall. The Council's social care records show he was soon permanently excluded from school for cannabis use and suspected drug dealing. He was then aged 15. The school referred Mr B to Child and Adolescent Mental Health Services (CAMHS). There were issues with Mr B "hanging around in [Town A] till 10pm every night, impact on sleep and behaviour e.g. stealing food from a shop in [Town A] as he was hungry". Mr B admitted to daily cannabis use. He also reported low self-esteem and issues with his speech. Both CAMHS and social services were involved with Mr B and his father for about six months.
15. In early 2016, Mr B and his father were evicted from a flat in Town B and moved to temporary accommodation in Town A. Mr B told a social worker he had been a cannabis user since age 11. He suffered a psychotic episode in February 2016 and CAMHS accepted a new referral. The Council recorded that Mr B's parents had had to pay off his debt to a drug dealer. It assessed him, recording on 10 March 2016 his drug use posed a risk of "overdose, addiction and potentially death". On 29 March 2016, the Council recorded during a social work supervision that "there are rising concerns about [Mr B's] mental health" and "his mental health is so low at the moment that he won't leave the house". Two days later, the Council recorded "we are looking to get immediate support from CAMHS for him." There are also references following this to Mr B selling clothes to buy drugs, his use being estimated at about £70 per week. However, in April 2016, Mr B and his father moved to a new address in Town B and Mr B's mental health improved, according to the records. The social care records stated on 19 May 2016 that "CAMHS have left the referral open". He had recently turned 17.
16. The social care records for 1 June 2016 stated there was a complaint that drug dealing was happening in a lane behind the address Mr B and his father had moved to six weeks earlier. There were concerns in the next two weeks about Mr B dealing drugs, threatening his father and owing drug dealers money.
17. On 22 June 2016, the Council completed a Child in Need Plan for Mr B. This stated, "He is still using a lot of cannabis and has recently been causing problems at their new address". It went on that there were "allegations for drugs use and loud music at the property".
18. On 27 June 2016, the Council found out a sex offender who posed a risk to children had stayed with Mr B and his father. It considered the possible risk of child sexual exploitation (CSE) and discussed this at a multi-agency meeting the following month.
19. On 7 July 2016, Mr B was arrested for drug dealing. He had also assaulted his father. His bail conditions included not returning to his father's home. The Council moved him to supported accommodation in Town C on 11 July 2016.
20. Two weeks later, Mr B was found in possession of drugs. The Council recorded him as at risk of street homelessness on 1 August 2016.

The events of August to October 2016

21. Mr B became homeless on 2 August 2016 when he was evicted from the supported accommodation. The Council asked Mrs C if she could accommodate him, but she could not do so. It recorded Mr B was not willing to go to supported accommodation in Town D, over 30 miles away from the area he knew. Officer A,

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- an officer in the housing department, confirmed the Council's housing duty had ended because Mr B had breached the conditions of his stay and been evicted.
22. We interviewed Officer A. She told us the housing department's duty was to make a referral to social care via a multi-agency referral unit (MARU) form if its housing duty ended. This is also stated in the Council's protocol about homeless 16 and 17 year-olds.
 23. A social worker (Officer B) bought him a tent and helped him to pitch it on a campsite.
 24. Of the six officers we interviewed, none thought a tent was a good option, but only Officer A thought it would never be appropriate for a homeless 17 year-old.
 25. We have not seen any evidence of contact by the Council with CAMHS or other agencies on 2 August 2016 or later, or of any strategy meeting or recorded assessment of the potential risk to Mr B of staying in a tent, or of his ability to make a rational decision about whether this was appropriate for him.
 26. We interviewed Officer B. She told us the Council had a duty to offer a safe and appropriate place. She said the Council could not force Mr B at age 17 to come into care and that at times there is nowhere appropriate available in Cornwall. She said Mr B's attitude towards coming into care "fluctuated", at times wishing to be accommodated and at times not. She also said social workers thought Mr B was associating with people who dealt drugs rather than dealing drugs himself.
 27. The manager who authorised Officer B's decision about the tent was Officer C. She was covering the leave of the usual manager. Officer C told us at interview that she knew about Mr B's cannabis use and his vulnerability and unpredictability. She said the Council made a decision to keep Mr B warm, fed and in contact. She said she agreed to the tent to avoid Mr B being street homeless. She said he had food vouchers, phone top-ups and a torch and was on a registered campsite. She said there was no reason in August 2016, based on a conversation she had with another social worker who had been dealing with Mr B until July 2016 (Officer D), to suggest a strategy meeting under s.47 of the Children Act 1989 was necessary. Officer D has since left the Council and we were not able to interview her.
 28. The officer who worked most regularly with Mr B during August and September 2016 was a family worker (Officer E). He told us the Council was working intensively to keep Mr B safe at that time.
 29. Officer E's records show Mrs C challenged the decision to place Mr B in a tent on 3 August 2016. He told her there were no options available as Mr B did not want to come into care.
 30. The social care record for 3 August 2016 stated "there is currently no management agreement for [Mr B] to come into care base[sic] on his current behaviours – wanting to do as he pleases, using cannabis and being aggressive".
 31. The housing file for 4 August 2016 stated "called client, still not accommodated, has slept rough [sic] for past two nights."
 32. On 5 August 2016, Mr B moved the tent from the campsite to rough ground nearby. Officer B recorded that day Mr B had changed his mind about coming into care, but she had told Officer E Mr B's behaviour and risks made the likelihood "remote". She recorded Officer E told Mr B the same. Officer B recorded she thought Mr B staying with Mrs C when she came to Cornwall the next day for two

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- weeks would be the best option. Mrs C says she could not agree to this owing to the risk Mr B posed, not least to her two foster children.
33. The housing file recorded that Mr B rang twice to ask for accommodation, on 9 and 12 August 2016. On the former occasion, the social care file recorded Mr B was taking decisions against advice. On the latter occasion, Mr B also reported his tent was leaking and he had no food. Mrs C also rang on 12 August 2016, worried about her son being on the street. The social care file recorded she was told “these decisions are being made at senior management level” and “I emphasised the importance of [Mr B] taking some responsibility for his behaviour”.
 34. Two days later, on 14 August 2016, the social care file recorded Mr B spent a night at bed and breakfast accommodation after he breached bail conditions by going to his father’s house. Officer E asked him if he still had the tent. He said he was short of food. Officer E gave him sandwiches. He asked again for housing on 14 August 2016. The housing department offered to contact children’s services.
 35. On 15 August 2016, the Council received two calls about Mr B’s welfare. He had been found in an abandoned building, having set fire to a mattress to keep warm. The fire service attended and the police took him back to the campsite and helped him pitch his tent. Children’s social care sent a referral to the housing department. This referral stated, “[Mr B] is extremely vulnerable on the streets and has been associating with a known sexual offender and [Mr B] is also vulnerable to unsavoury characters in the streets, particularly as he has a history of cannabis use”. It went on, “although at the moment his options with the LA are limited due to his behaviours if he can evidence he wants to make some changes then his options would increase”.
 36. On 17 August 2016, Mr B reported his tent was leaking again after a gale.
 37. The following day, Mrs C and Mr B met Officer B at the campsite. Officer B had bought Mr B a new tent. Mr B admitted he had been dealing drugs while living with his father. He also told Officer B he had taken speed, MDMA and cocaine. According to the social care records, Officer B asked Mrs C if she could accommodate him. She was not able to do so.
 38. Between 20 August 2016, when Mrs C returned home with her husband and foster children, and 23 August 2016, the Council tried without success to find vacancies for Mr B at supported accommodation. The housing file recorded the Council told Mr B on 25 August 2016 it could bring him into care.
 39. On 26 August 2016, the Council completed another Child in Need Plan for Mr B. This stated “drug use appears to have reduced significantly”. We have not seen any evidence from the records that his drug use had reduced.
 40. Four days later, on 30 August 2016, Mrs C reported texts from Mr B in the middle of the night about depression and the loneliness of the campsite.
 41. The following day, the social care record stated there were concerns Mr B was selling stolen goods. The same record went on that Mrs C had been told “[Mr B] needs to be making his own decisions”.
 42. On 5 September 2016, the social care record stated Mr B had been sleeping in the doorway of supported accommodation that he wanted to be placed in.
 43. Two days later, on 7 September 2016, Mr B was arrested for theft and common assault after stealing food and drink from a supermarket. Social workers decided

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- the risks posed to Mr B by drugs, alcohol and CSE were such that he could not continue in the tent.
44. The Council decided on 7 September 2016 to move Mr B to a static caravan on another site. Officer E told us at interview that Cornwall had been “jammed”, but it was his work that had secured the static caravan. He said the caravan park had had “loving people” in charge who had made Mr B breakfast. He said the static caravan was a good option.
 45. None of the six officers we interviewed thought it inappropriate to accommodate a homeless 17 year-old in a static caravan.
 46. We interviewed the manager for the area, Officer F. He had returned from leave by 7 September 2016. He said one should beware of hindsight and pointed out Mr B had been discharged by CAMHS in the summer. He said the Council had acted when there was a marked deterioration in Mr B’s condition. He told us the Council held a strategy meeting under s.47 of the Children Act 1989. We have seen no evidence of a strategy meeting being held at the time when Mr B was in the tent or the static caravan. The Council held a strategy meeting in December 2016. By this time, Mr B was unfit to be questioned, having been detained under the Mental Health Act 1983 in October 2016. We have also seen no evidence the Council contacted CAMHS or other agencies in August or September 2016.
 47. In the next week, according to the social care records, Mr B owed a drug dealer £85 for cannabis and he also reported being sexually assaulted by a man in a car. The social care record for 14 September 2016 states the sexual assault had been reported to the police. However, it does not say if this was by staff at a college to whom he reported it or by an officer of the Council.
 48. We have not seen any evidence the Council considered whether to take any action under s.47 of the Children Act 1989 to safeguard him following the report of the sexual assault.
 49. A youth homelessness officer (Officer G) emailed the housing department on 13 September 2016 to say the static caravan was not an option with winter approaching. At interview, she told us the Council would not have placed Mr B in a tent in an ideal world, but the Council had had “no other bricks and mortar option”.
 50. The housing file recorded on 15 September 2016, “I know that he is refusing care and so needs to be taking some responsibility for himself, but a serious case review would want to see that we had exhausted all possibilities.” A serious case review is held when a child dies. The following day, a note on the same housing file recorded, “I pointed out that this current behaviour may stop when his [sic] isn’t homeless.” But the social care file recorded the same day that a move to supported accommodation was unlikely in the near future due to Mr B’s behaviour.
 51. On 23 September 2016, according to the social care file, Mr B admitted he had spent all his benefits in a few days and his cannabis use was out of control and excessive. On 27 September 2016, according to the same, he admitted being “quite stoned” and said, “I might as well kill myself and I might as well be a drug dealer”.
 52. The Council then planned to move Mr B to bed and breakfast accommodation. By 6 October 2016, the static caravan was in a mess and Mr B had to leave. But the housing department would not offer Mr B accommodation, saying children’s

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- services were responsible for accommodating him. Mrs C called the Council that day. The social care records show she was told Mr B's situation was his own fault and the Council could not accommodate him. Mrs C threatened to contact the media.
53. On 7 October 2016, Mr B was recorded as having nowhere to sleep that weekend, having stayed with "mates" the previous night. The Council placed him in supported accommodation in Town D, the accommodation he had rejected on 2 August 2016 as too distant.
 54. By 17 October 2016, there were concerns Mr B's symptoms were drug-induced psychosis. Three days later he was unfit to be questioned and was detained under the Mental Health Act 1983. He said he had voices in his head and he had been raped.
 55. Mrs C described her son just after his detention as being in an emaciated condition that shocked her and his grandmother when he removed his t-shirt. She said he had running sores on his face that left scars he still bears 18 months later. The Council says Mr B was "drawn and dishevelled" at this time.
 56. This detention in hospital continued for 11 months. The psychiatric hospital where he was detained wrote on an assessment in December 2016 that Mr B had been living "in a tent!".
 57. On 25 October 2016, after Mr B left Cornwall to be detained in hospital, the Council completed another Child in Need Plan for him. This stated the effect of living in a tent had disadvantaged him. It said he was "vulnerable", had had "several periods of homelessness", had "high levels of drug use" and was "at risk of CSE". It also recorded he had been offered inducements by men.
 58. The Council wrote a further Child in Need Plan on 21 December 2016. This said Mr B's inability to sustain positive changes "is part due to his situation where he has been living in a tent and latterly caravan [sic]".
 59. We have not seen any evidence that the Council sent Mrs C copies of the Child in Need Plans it wrote in 2016 or the assessments that led to them. We have not seen any evidence the Council held any meetings to which it invited Mrs C. The Council says this was at Mr B's request, though it did not record this. The majority of telephone contacts appear to have been made to the Council by Mrs C. The Council disputes this.
 60. The Council at first declined to deal with Mrs C's complaint on Mr B's behalf. She complained to us and we found the Council at fault in complaint [16 011 571](#) for failing to deal with her complaint or at least to seek Mr B's consent. During the investigation the Council carried out into Mrs C's complaint in settlement of complaint 16 011 571, the investigator decided not to interview Mrs C face-to-face. Instead, he interviewed her by telephone as he thought she lived too far from Cornwall for her to attend for interview. We have not seen any evidence he offered her the choice of a face-to-face meeting.
 61. The investigator acting within the Council's complaints process found no fault with the Council's actions. Mrs C complained again to us.

Conclusions

Summary of what happened to Mr B

62. It was clear by 4 August 2016 that Mr B was street homeless. The housing department had completed a MARU form and referred the case to children's services. Mr B had a history of long-term drug use. He had also had CAMHS involvement on two occasions since 2014, the most recent of which had been left open on 19 May 2016. The social care records lay out his continuing and escalating drug use from August to October 2016. They also show he reported a sexual assault and was vulnerable to men who offered him money, though with what purpose is not clear. He also reported he had been raped. By the time he reported this he was mentally unwell. During August to October 2016 he spent five weeks in a tent, four weeks in a static caravan, and several nights sleeping rough, either on open ground or in a doorway. He complained he was cold and wet, set fire to a mattress to keep warm in an abandoned building, leading to a callout for the fire service, and stole food. By October 2016 he bore the physical signs of what he had been through and his mental health was so poor he was detained under the Mental Health Act 1983 for 11 months.
63. The Council accepts the outcome for Mr B was poor, but points out that he declined accommodation under s.20 of the Children Act 1989 and it had to accord with his wishes as he had been discharged by CAMHS.

Mr B's requests for accommodation

64. It is correct that Mr B declined accommodation in Town D on 2 August 2016. However, he asked to be accommodated on 3 August 2016. The Council did not accommodate him. Instead, the records for 3 August 2016 state "there is currently no management agreement for [Mr B] to come into care base[sic] on his current behaviours – wanting to do as he pleases, using cannabis and being aggressive".
65. Mr B asked again on 9 August, 12 August and 14 August 2016 for accommodation. By the second date, he also reported his tent was leaking and he had no food. But the Council records state Mrs C was told, "I emphasised the importance of [Mr B] taking some responsibility for his behaviour". She was also told "these decisions are being taken at senior management level."
66. The officers we interviewed said Mr B was inconsistent about his wish to come into care. However, the responses he and his mother, Mrs C received to the requests made show the Council failed to offer accommodation on 5 August and 14 August 2016. They also show it declined to offer accommodation on 12 August 2016, when Mr B was street homeless because his tent was leaking. Instead, the Council told Mrs C that Mr B was responsible for his situation. This was fault.
67. We deal with the suitability of tents and static caravans as accommodation below, before returning to Mr B's consistency of view and his state of mind.
68. Only one of the officers we interviewed thought a tent was never appropriate for a homeless 17 year-old. Yet statutory guidance states that bed and breakfast accommodation is never suitable for homeless young people. This is because of the vulnerability of under 18s and their need for support. They should be placed in accommodation where appropriate support is available and not in mixed-age provision. In our view, it follows that a tent can never be suitable accommodation for a homeless young person. The siting of the tent and the equipment provided is, in our view, irrelevant. So is the time of year. We find tents as unacceptable in the summer as at other times of year as the weather is only one of the reasons

they are unsuitable. That most of the officers interviewed, including managers, declined to rule tents out absolutely as a potential choice and offered the reasons given above makes it more likely than not that the Council corporately found the use of tents acceptable in some circumstances. That was fault.

69. After five weeks in the tent, Mr B moved to a static caravan. We consider static caravans, while clearly physically more robust than tents, also never to be suitable for homeless young people in the same way as bed and breakfast accommodation. Officer A recognised this when she told us that bed and breakfasts (which breach statutory guidance) are not good, but that they are better than tents or caravans. This was also recognised by Officer G when she emailed the housing department on 13 September 2016 to say the approaching winter ruled out the continued use of the static caravan. But it is clear from the social care records and our interviews that officers, including managers, felt it was acceptable to place Mr B in a static caravan on 7 September 2016. Indeed, one officer regarded it as a good option. There is no doubt that the Council found static caravans to be suitable accommodation for homeless young people when they cannot be suitable. That was fault.
70. We also note the Council placed Mr B in bed and breakfast accommodation for one night on 14 August 2016 and planned to do so again in early October 2016. At interview, we were told by Officer G the use of bed and breakfast accommodation in Cornwall is quite common. We also note Officer D told the Council's Stage 2 investigator that Mr B became homeless "at the peak of the holiday season which meant that it was almost impossible to find B & B accommodation". We see no reason to doubt these two accounts and so find the Council considered it suitable for homeless young people. But the use of bed and breakfast accommodation breaches statutory guidance, so we find the Council at fault.
71. Two interviewees, Officers E and G, also confirmed a lack of accommodation for homeless young people in Cornwall. Officer G said, "in this area we had no other bricks and mortar option". Officer E told us Cornwall was "jammed" when he found the static caravan. Taken with Officer G's comment that the use of bed and breakfast accommodation is common in Cornwall and the comment of Officer D recorded by the Stage 2 investigator, we find the Council at fault for failing to plan for what is a foreseeable need.
72. In summary, we find the Council at fault for:
- failing to offer Mr B suitable accommodation under s.20 of the Children Act 1989;
 - failing to plan for the foreseeable need for suitable accommodation for homeless young people;
 - considering the use of bed and breakfast accommodation and static caravans routinely acceptable as accommodation for homeless young people; and
 - considering tents acceptable as accommodation for homeless young people in some circumstances.

Mr B's wishes and the risks he faced

73. Returning to the issue of Mr B's consistency, the officers we interviewed told us Mr B fluctuated in his views about accepting accommodation. There is some evidence of this in the social care records. Where a young person does not wish to be accommodated, a council should normally accord with his or her wishes.

However, statutory guidance states that councils can only treat a young person's wishes as "decisive" as part of an overall assessment. That would be even more so where the young person's wishes fluctuated.

74. In Mr B's case, the Council knew about his previous recent mental ill health and his long-term drug use, as shown by its own records from 2014. It had also considered safeguarding action after he had contact with a known sex offender. Therefore, when Mr B became homeless on 2 August 2016 and regularly after that, even if he had not at times asked for accommodation, the Council should have considered if he was freely able to choose a tent, which was unsuitable accommodation.
75. It should also have considered if he was at risk of significant harm in the terms of s.47 of the Children Act 1989. This would have been likely to involve a strategy meeting and the involvement of other agencies, notably CAMHS as Mr B had had recent involvement with mental health services.
76. If the Council had properly and regularly considered whether Mr B was freely able to decline accommodation and had also considered if he was at risk of significant harm, it is possible it might have reached the same decision it did to accept him living in unsuitable accommodation.
77. But it did neither. Instead, the records show it consistently assumed his situation was his own fault.
78. There is no evidence in the social care records that the Council discussed Mr B's mental health at any time before he was detained under the Mental Health Act 1983 in October 2016. And though Officer F told us the Council conducted a strategy meeting, there is no evidence in the records of one until December 2016, when Mr B was in a psychiatric hospital. Nor is there any evidence of any safeguarding action between the meeting about the contact with the sex offender before Mr B became homeless and the strategy meeting mentioned in the previous sentence. Officer C also told us there were no grounds at 2 August 2016 for a strategy meeting.
79. Despite this, the social care records show the Council thought Mr B was at risk. On 10 March 2016, it had assessed his risk from drugs when he was still living with his father as being of "overdose, addiction and potentially death". By the time he became homeless, the Council knew he had been associating with drug dealers and there were grounds to suspect he was also dealing drugs.
80. The situation deteriorated during August 2016. On 15 August 2016, the referral from children's services to the housing department stated, "[Mr B] is extremely vulnerable on the streets and has been associating with a known sexual offender and [Mr B] is also vulnerable to unsavoury characters in the streets, particularly as he has a history of cannabis use". He had by this stage put himself at risk by setting fire to a mattress in an abandoned building because he was cold. Two days later, Mr B admitted he had used cocaine, speed and MDMA. By the end of August 2016, Mrs C reported Mr B had talked about being depressed and lonely on the campsite. These were possibly the same symptoms which had led to CAMHS being involved with Mr B in 2014. Yet Mrs C was told Mr B needed to be making his own decisions. It was only on 7 September 2016 that the Council finally took the decision it was too risky to leave Mr B in a tent.
81. Later in September 2016, Mr B reported a sexual assault. The Council had already recorded him as at risk of CSE due to contact with a known offender. But the social care records show no evidence the Council assessed the risk of further

incidents given Mr B's by now chaotic lifestyle. Instead, it noted the matter had been reported to the police. The housing department raised the issue of risk, writing "I know that he is refusing care and so needs to be taking some responsibility for himself, but a serious case review would want to see that we had exhausted all possibilities." The following day, the same department wrote, "I pointed out that this current behaviour may stop when his [sic] isn't homeless." Serious case reviews are held in cases of child death. The housing department's reference to the possible consequences if something went wrong is, in our view, striking.

82. By the end of September 2016, Mr B admitted his cannabis use was out of control and excessive. The Council recorded he said, "I might as well kill myself and I might as well be a drug dealer". Yet as late as 6 October 2016, when Mr B's situation was spiralling out of control, the social care records show the Council continued to blame him and take no account of the possible risks he faced. It told Mrs C on 6 October 2016 the situation was Mr B's own fault. At that point, she threatened to contact the media.
83. In summary, we find the Council at fault for:
- failing to consider if Mr B's chaotic lifestyle and possible mental health problems meant he was not able as a 17 year-old to make a definitive decision about accommodation, instead blaming him for making poor choices;
 - failing at various points between August and October 2016 to assess if Mr B was at risk of serious harm under s.47 of the Children Act 1989, not only through CSE, but also from increasing drug use, depression, exposure to cold and risk of injury while trying to keep warm; and
 - failing to work with other agencies, notably CAMHS and the wider NHS.
84. Therefore, we find fault in terms of the first two complaints made on Mr B's behalf by Mrs C.

Asking Mrs C to accommodate Mr B

85. The social care records suggest the Council asked Mrs C on more than one occasion in early August 2016 if she could accommodate Mr B. It would not be fault to have asked her as her forthcoming stay in Cornwall might in other circumstances have provided a short-term answer to Mr B's homelessness. However, Mrs C had good reasons why she could not agree.
86. It is clear the Council was under pressure to find accommodation for Mr B. And we note the Council told Mrs C there was "currently no management agreement for [Mr B] to come into care". It also told her there were no options available. These statements were given to a mother whose son had been sleeping rough and who had been given a tent, a mother who had protested against the use of a tent. In our view, it is more likely than not on the balance of probabilities that, in such a context, the Council put pressure on Mrs C to accommodate Mr B with the implicit suggestion that if she did not agree, Mr B would remain in the tent. That was fault.

Contact with Mrs C

87. Mrs C had parental responsibility for Mr B in 2016 and he was not allowed to contact his father by virtue of bail conditions. So Mrs C was the principal point of parental contact. She travelled to Cornwall in the summer of 2016 and appears to have done her best to ensure Mr B was fed and looked after. Mr B did not show and has not since shown any reluctance for Mrs C to act on his behalf. But the

evidence from the social care files suggests that contact between Mrs C and the Council was usually opened by her. We have not seen any evidence the Council shared its assessments with her or invited her to meetings. And there is no record that Mr B did not want her involved. Therefore, we find the Council at fault.

Complaint handling

88. We have already found the Council at fault for failing to deal with Mrs C's complaint on Mr B's behalf, or at least to seek his consent to do so in complaint 16 011 571. We also find the Council at fault for the investigator at the second stage failing to ask Mrs C if she wished to travel to Cornwall to be interviewed.

Injustice

89. We will deal first with the injustice to Mr B.
90. We cannot say fault by the Council was the sole cause of his prolonged detention under the Mental Health Act 1983. But fault by the Council can only have worsened his mental health. The Council recorded in an assessment on 25 October 2016 that the effect of living in a tent had disadvantaged him. And an NHS mental health assessment used an exclamation mark to describe accommodating him in that way.
91. Similarly, we cannot say Mr B's drug use and consequent problems with drug dealers would have reduced but for the fault. However, the fault caused lost opportunity to reduce it. It would not be an acceptable argument to say that monitoring and help are equally available to a young person in a tent as to a person in supported accommodation. Mr B's reported loneliness and depression on the campsite makes that clear.
92. It is also the case that a better response from the Council would not have eliminated all risk to Mr B of sexual assault, or all risk from setting a fire. It is possible these could have happened even if he had been placed in supported accommodation. However, he would have been less likely to be on the streets at night and thus offered money by men he did not know. And he would have had less need to make a fire to keep warm, and no need to dry out when a tent leaked. So that is injustice in the form of lost opportunity and increased risk of harm.
93. Finally, we cannot say Mr B would have eaten better in better accommodation. But the increased opportunity that would have created to address his difficulties makes it more likely he would have acted differently and not had to steal food. Again, that is lost opportunity.
94. We turn to Mrs C's injustice.
95. The primary injustice to Mrs C was in the form of severe distress in the summer of 2016. She lived a long way from Cornwall and so had only limited ability to help her son. The social care records show she phoned the Council regularly in the summer of 2016 and was fully aware of the risks Mr B faced. Her distress is clear in the Council's records from that time. We have no doubt she feared for her son's life.
96. However, Mrs C also has avoidable uncertainty caused by Mr B's lost opportunity. Mr B spent 11 months in hospital. She tells us she has had to give up fostering children and move house to look after Mr B. While we cannot say later events would have been better but for the fault, they could have been.
97. The Council's failure to involve Mrs C in 2016 by sending her its assessments of Mr B or inviting her to meetings, followed by its unreasonable refusal to deal with

her complaint on Mr B's behalf without at least checking his consent caused Mrs C frustration. It also caused her additional time and trouble by having to ask us to intervene on her behalf.

Recommendations

98. To remedy Mr B's injustice, we recommend the Council, within one month of the date of this report:
- apologises to him for the fault found; and
 - pays him £1,000 for the effect on his mental health of placing him in unsuitable accommodation, £1,000 for his lost opportunity and £500 for placing him at risk without properly assessing whether he was able to freely consent to the arrangements the Council made for him and for failing to follow up his report of a sexual assault, making £2,500 in total.
99. To remedy Mrs C's injustice, we recommend the Council, within one month of the date of this report:
- apologises to her for the fault found; and
 - pays her £1,000 for the severe distress its actions caused her in the summer of 2016, £250 for the frustration of having to chase the Council for information and £250 for her time and trouble in pursuing her complaint, making £1,500 in total.
100. To prevent a recurrence of these failings we recommend the Council, within three months of the date of this report:
- reviews its policies and procedures for accommodating homeless 16 and 17 year-olds to comply with statutory guidance and to ensure bed and breakfast accommodation, static caravans and tents are never considered suitable accommodation for such young people. It should also ensure that where homeless young people refuse accommodation, it considers if there is any reason why it should not treat their wishes as definitive rather than assuming so. It should also record the reason for its decision to accept the young person's refusal;
 - draws up an action plan to ensure there is sufficient suitable accommodation available for homeless young people in Cornwall;
 - arranges staff training for those who work with homeless young people to ensure they are aware bed and breakfast accommodation, static caravans and tents are never suitable accommodation for homeless 16 and 17 year-olds; and
 - arranges staff training to ensure there is a proper recorded decision about possible risk of significant harm in all cases where the Council receives a safeguarding referral involving any child or young person under 18, including reports of CSE.
101. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children's Services and Skills (Ofsted), we will share this decision with Ofsted.