

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

**Investigation into a complaint against
London Borough of Hounslow
(reference number: 17 018 631)**

Date 3 October 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

Miss X	The complainant
Officer 1	Housing officer
Officer 2	Housing officer

Report summary

Housing: homelessness

Miss X complains the Council has failed to provide housing support following her application for housing in May 2017. She says she is homeless and is in priority need because she has a dependent child.

Finding

The Council is at fault as it failed to take a homelessness application and provide interim accommodation to Miss X. It caused injustice because Miss X was forced to sofa surf when pregnant and after her baby was born.

Recommendations

To remedy the injustice caused to Miss X, we recommend the Council:

- apologise to Miss X for its failure to take a homelessness application and provide her with interim accommodation and the significant injustice this caused to her and her child;
- pay Miss X £3,500 for the injustice it caused in the 10 months she sofa surfed. This is £350 a month and is consistent with our [guidance on remedies](#);
- confirm it will offer Miss X suitable accommodation in the local area by 3 October 2018 as it agreed to do;
- take a homelessness application and provide Miss X with a decision and review rights. If it agrees it owes Miss X a duty it should backdate her housing register priority to 22 May 2017.

To remedy the service failures identified in this report the Council should review its procedures and:

- tell us what action it will take to ensure it takes a homelessness application as soon as someone approaches it as homeless;
- tell us what action it will take to ensure it meets its legal duties to find accommodation for homeless applicants; and
- provide evidence that it is fulfilling its duties to homeless applicants who have approached it after 3 April 2018.

The Council has accepted our recommendations. The Council has taken a housing application which it back-dated to May 2017 and offered Miss X permanent accommodation in social housing, which she has accepted. Therefore, it has now formally decided Miss X is not homeless.

The complaint

1. Miss X complains the Council has failed to provide housing support following her application for housing in May 2017. She says she is homeless and is in priority need because she has a dependent child.

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*)

Housing Legislation before 3 April 2018

3. If a council has ‘reason to believe’ someone may be homeless or threatened with homelessness, it must take a homelessness application and make inquiries. The threshold for taking an application is low. The person does not have to complete a specific form or approach a particular council department. (*Housing Act 1996, section 184 and Homelessness Code of Guidance for Local Authorities paragraphs 6.2 and 6.6*)
4. A council will apply four tests to decide what, if any, duty it owes to a homelessness applicant. It will make enquiries to find out if the applicant is: eligible for assistance (which mostly relates to immigration status); homeless or threatened with homelessness; in priority need (as legally defined, for example, has dependent children); and not intentionally homeless.
5. A council must offer interim accommodation while it considers a homelessness application if it has reason to believe the applicant may be homeless, eligible for assistance and in priority need. (*Housing Act 1996, section 188 and Homelessness Code of Guidance for Local Authorities 2006, paragraph 6.5*)
6. There are no time limits for completing enquiries. However, the Homelessness Code of Practice recommends that councils aim to complete their enquiries within 33 working days.
7. After completing its enquiries, the council must give the applicant a decision in writing. If it does not accept a homelessness duty, it should fully explain its reasons in the letter. The letter should include information about the right to request a review and the timescales for doing so. (*Housing Act 1996, section 184*)
8. If a council is satisfied someone is eligible, homeless, in priority need and not intentionally homeless it will owe them a homelessness duty. Generally, the council carries out the duty by arranging temporary accommodation until it makes a suitable offer of social housing or a 12 month private rented tenancy. (*Housing Act 1996, section 193*)
9. A council can make suggestions about alternative housing solutions. However, a council must not avoid its duty to take a homelessness application, make enquiries and, if required, provide accommodation. (*Homelessness Code of Guidance for Local Authorities 2006, paragraph 6.4*)

Housing legislation after 3 April 2018

10. On 3 April 2018, the Homelessness Reduction Act 2017 made significant changes to a council's homelessness duties under part 7 of the Housing Act 1996. An applicant is now deemed to be threatened with homelessness within 56 days of the event which will make them homeless.
11. A council has a duty to assess all applicants who are eligible and homeless or threatened with homelessness. The first assessment it must make is whether it needs to provide interim accommodation. It must assess the housing and support needs an applicant has. It must prepare a tailored personal housing plan saying what steps the council and applicant will take to help secure accommodation. It must share the needs assessment and personal housing plan with the applicant. The applicant can ask for a review of the plan.
12. If someone is threatened with homelessness the council has a duty to try and prevent this. If the applicant is already homeless the council must try to relieve this. It has 56 days to do this and must do it by following the steps in the personal housing plan. The council must help the applicant try to secure suitable accommodation that the applicant has a reasonable prospect of staying in for six months. If the council achieves this, its prevention or relief duty ends. The accommodation must be reasonably available for six months from the date of the council's notice. The council must then give the applicant a notice saying it has ended its relief or prevention duty and tell the applicant about their review rights.
13. If the council decides an applicant is not homeless, it must give them a notice saying this and their review rights. If a council does not decide an applicant is homeless or threatened with homelessness before moving to the prevention or relief stage, it has automatically accepted the applicant is homeless.
14. During the relief or prevention period the council must consider if the applicant has a priority need and if they are homeless intentionally. If the council has not secured accommodation for the applicant within 56 days and the applicant has a priority need and is not homeless intentionally, the main housing duty arises. A council must give the applicant a notice to say this. A council can discharge this duty by the offer of social housing from the waiting list or a suitable six month assured shorthold tenancy in the private sector.
15. In assessing suitability, a council must take into account the size of a property and its location.
16. Any applicant who has a homelessness application triggered before 3 April 2018 is dealt with under Part 7 of the legislation relevant before 3 April 2018. Any applicant who has a homelessness application triggered on or after 3 April 2018 will have their application dealt with under the amended version of the Housing Act.

How we considered this complaint

17. We produced this report after examining relevant documents and speaking to Miss X.
18. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

What happened

19. On Monday 22 May 2017, Miss X went to the Council with a letter from her parents saying they had told her to leave their home the day before. Miss X was seven months pregnant.
20. The Council did not take a homelessness application and did not offer Miss X interim accommodation. It has not provided any notes of its interview with Miss X on 22 May.
21. The Council says it gave Miss X a form to complete and asked her to return with this and documents about her situation. It says it needed this information to assess if Miss X was eligible and had a priority need.
22. Miss X says she had some documents with her and went back the next day with the form and other documents. She says the Officer she saw on 22 May (Officer 1) was not available and so the Council put her documents in a mail box.
23. Miss X says she went back to the Council later that week and saw Officer 1 who said she had not received her documents. She says Officer 1 gave her the forms to fill in again and told her to provide the documents again. She says Officer 1 said it would take two weeks for the Council to provide her with accommodation. Miss X says she provided the documents again.
24. Miss X says she “sofa surfed” staying with various friends and occasionally sleeping in friends’ cars or their work vans. She says she did not hear from the Council so went back after two weeks. She says she was very worried by then as her baby was due to be born and she had nowhere to live. She says Officer 1 again said she did not have her documents and asked her to complete another set of forms and provide her documents a third time. She says she was told there was no accommodation in the area. She did not want to move out of the area as she needed to attend hospital appointments because there were concerns about the baby.
25. The Council says it has no record of Miss X submitting forms and supporting documents in May 2017.
26. A Council Visiting Officer went to Miss X’s parents’ address on 21 June 2017. There was no-one at home. The Visiting Officer called again on 22 June and spoke with Miss X’s parents, who confirmed she had moved out a month before, following arguments. The parents were not able to provide a forwarding address. The Visiting Officer telephoned Miss X and left a voice mail for her.
27. On 29 June 2017, Officer 1 met Miss X at the Council offices. Officer 1’s records say Miss X said she was staying with her parents but then said she was staying with friends but could not provide an address. Officer 1 says Miss X provided relevant documents and said she would provide an address for enquiries. The notes say: “*Await further contact from client with current address.*”
28. The Council did not take a homelessness application or offer interim accommodation. The Council says Miss X needed to provide the address she was staying at so it could assess if she was homeless. The Council originally said:

“It is not reasonable for the council just to assume the applicant is homeless in the absence of requested information being provided by the applicant.”

-
29. In further comments, the Council added it does not accept it had a duty to offer interim accommodation. It says the Housing Act says it “*shall secure accommodation*”, which does not have the same meaning in law as “*offer*” accommodation. It says there was no suggestion there was violence in the parental home. It further says it does not accept Miss X was sleeping in cars or vans with a new-born baby because no safeguarding concerns were raised by a health visitor or other professional. It also did not accept she was sofa surfing.
 30. Miss X says she kept in touch with the Council between May and September 2017 but every time the Council told her it would be two weeks before it could offer her local accommodation. She says she informed the Council when she had her baby. She says at this point the Council mentioned a mother and baby unit in Chiswick but did not offer her a place. She says the Council also asked her to consider moving to Manchester or Birmingham for interim accommodation. She says this was not realistic as the baby had hospital appointments.
 31. The Council says it had no contact with Miss X from 29 June 2017 until March 2018 when she made a complaint. Miss X has provided receipts for depositing documents dated 29 June and 10 August 2017. She has also provided a copy of her email dated 20 October 2017 sending the Council a copy of her baby’s birth certificate. She says she saw a Council officer just before Halloween and again in mid-December 2017 but was told the Council could not provide accommodation.
 32. On 15 March 2018 Officer 2 telephoned Miss X. Officer 2 noted Miss X said she had stayed with various friends since leaving her parents’ home. Officer 2 asked where she was staying now. Miss X said she was staying with a friend and emailed the address to Officer 2.
 33. In her email Miss X gave her friend’s email address. She said she was sleeping on the sofa and her baby slept in a bouncer. She said her baby was disturbing her friend’s children because she was crying at night. She agreed Officer 2 could ask her parents if they would take her back for a “*short while*”, as hearing from “*a professional might make a difference*”.
 34. On 28 March 2018 Officer 2 interviewed Miss X. Officer 2 did not take a homelessness application. Officer 2 told Miss X if the Council owed her a duty it might offer her accommodation away from London because of her low income. Officer 2 suggested Miss X could find her own private rented accommodation but Miss X felt this was not possible. Officer 2 agreed to contact Miss X’s parents to see if she could stay for a specified period “*if she qualified to join our housing register*”. Officer 2 telephoned Miss X’s father. Officer 2’s notes say Miss X’s father gave the reasons Miss X could not live with him but he would be willing to let her come back to the family home for six months on condition the Council rehoused her in Hounslow after that period.
 35. Also on 28 March, Miss X contacted us to say the Council had discussed the possibility of bed and breakfast accommodation away from London but she did not wish to accept this as she would have no support network there. The Council says her refusal to accept this offer would have brought its housing duty to an end as it says the complainant did not have priority to remain in the Borough under its Housing Placement Protocol. The Council has not provided evidence of a formal offer being made.

-
36. On 4 April 2018 Officer 2 emailed Miss X's father. His email says:
- “please accept my sincere apologies for the delay in sending this email”*
- “further to our telephone conversation last week, I confirm our agreement in this e-mail.”*
- “We discussed that although it is difficult for you to allow [Miss X] back in your home, you were concerned that there may be a possibility of [Miss X] being offered a property out of Hounslow/London. You have very kindly agreed to allow [Miss X] to stay in your property for at least the next 6 months. We discussed that within this timeframe the Council will make an offer of suitable accommodation in the local area.”*
37. Miss X's father emailed back to say he accepted the conditions. Miss X confirmed to the Council that she and her baby were sleeping in the box room at her parents' home.
38. In its response to us the Council says it is a standard preventative technique to negotiate with family and friends for applicants to remain living with them. The Council says Miss X completed a pre-qualification questionnaire for its housing list on 25 April 2018 and an online housing application on 9 May. It said it would be six to eight weeks before it had assessed this and it could not pre-empt the outcome.
39. The Council said Miss X was not homeless or threatened with homelessness as she could stay with her father until October 2018. It said it would only consider her as being threatened with homelessness 56 days before she must leave her father's home. It said Miss X does not meet its criteria for consideration of in-Borough accommodation only.
40. After we issued a draft decision, which included the recommendations set out in this report, the Council reviewed the case. It decided to back-date Miss X's Housing Register application to 22 May 2017. It has since offered permanent accommodation to Miss X, which she has accepted.

Fault

41. The Council is at fault as it did not take a homelessness application from Miss X on 22 May 2017 and did not offer her interim accommodation. The Council was under a duty to take a homelessness application. It must offer interim accommodation if a person may be homeless, eligible and in priority need. The threshold for this duty is low as the Council only has to have a reason to believe the applicant may be homeless, eligible and in priority need. Miss X had a letter from her mother confirming she had to leave the parental home. There was no need for her to show there was violence in the parental home. She was seven months pregnant and there was no obvious suggestion she might be ineligible. Miss X did not have to provide proof of her pregnancy and eligibility before the Council became obliged to provide interim accommodation. Miss X has provided receipts to show she went to the Council and handed in documents. The Council accepts its records are incomplete. This is fault.

-
42. The Council did not visit Miss X's parents until a month after she approached it. Her parents confirmed she no longer lived with them. The Council then asked Miss X to provide the address where she was staying but Miss X was unable to do so. Miss X explained she was moving around and sometimes sleeping in vehicles. It is not unheard of for someone moving around to be unable to give an address. In any event this would not have arisen as an issue if the Council had provided interim accommodation in May 2017 as it should have.
 43. Because the Council did not take a homelessness application it did not give Miss X a decision and denied her the right of review. This is fault. It had still not taken a homelessness application over a year later. This delay is further fault.
 44. The Council accepts Miss X was staying with friends and may have been sofa surfing but does not accept she slept in vehicles. It says its officers were never given any cause for concern. The Council has no evidence to substantiate its view as it has never investigated Miss X's homelessness. The lack of a safeguarding referral from anyone is not evidence to prove Miss X did not sofa surf or sleep in vehicles. On the balance of probabilities, we are more persuaded by Miss X's version of events.
 45. As the Council did not provide any accommodation to Miss X while she was pregnant and then with a new born baby she had to make arrangements when and how she could. Miss X says this was on sofas and sometimes in vehicles and her baby slept in a bouncer. We have no grounds to dispute this. Therefore, on the balance of probabilities, we find the Council has caused a significant injustice to Miss X.
 46. The Council then said Miss X was not homeless because she could stay with her family. It said negotiating for an applicant to remain at home is a standard prevention technique and it was confident it could work with Miss X to source accommodation within six months. In this case Miss X was not living with her family – she had left the family home some 10 months before and Miss X's father did not freely allow Miss X to move back in. The Council convinced him to let Miss X stay for a set time, rather than it provide accommodation out of the area. Miss X's father is providing accommodation for Miss X instead of the Council. This meant Miss X was homeless at home.
 47. In its response to us it was unclear whether the Council was saying Miss X's application fell under the Homelessness Reduction Act 2017. It said Miss X's father's agreement she can stay for six months brought her homelessness application to an end. If this was the case it should have issued a decision letter, which would give a right of review.
 48. The Council's homelessness duty to Miss X was triggered on 22 May 2017, long before the introduction of the Homelessness Reduction Act. The Council's failure to act on its duty is fault and Miss X should not suffer because of this. If it had done things properly Miss X could have had an active housing application from May 2017. If the Council had accepted a main housing duty to her she would be entitled to temporary accommodation and then either an offer of social housing or a 12 month private tenancy.
 49. When the Council contacted Miss X in March 2018 it again did not take a homelessness application. Instead it contacted Miss X's father. It did not put its proposal to him in writing until the day after the introduction of the Homelessness Reduction Act. This again is fault. The Council knew in March that Miss X could not remain staying on her friend's sofa. It waited until 4 April to sort any

accommodation out. This delay caused further injustice to Miss X. However, the Council's delay does not mean the new conditions set out in the Homelessness Reduction Act apply to her.

50. If the Council was able to treat this as a Homelessness Reduction Act case, it would have had to provide Miss X with a needs assessment or personal housing plan. It did not give her a decision she was not homeless or that it had ended its prevention or relief duty. It denied her all her review and appeal rights. It cannot have ended a prevention or relief duty as the accommodation located must be available for six months from the date of the Council's notice and it had not served a notice.
51. The Council told Ms X's father if he let her stay for six months, in that time it would make her an offer of suitable accommodation in the local area. Despite this the Council had not registered a housing application and could not pre-empt if it would accept a housing application. It also said Miss X did not qualify for the local area only. This is fault. The evidence shows the Council made an explicit undertaking to Miss X and her father and it should fulfil this.

Recommendations

52. To remedy the injustice caused to Miss X, we recommend the Council:
 - apologise to Miss X for its failure to take a homelessness application and provide her with interim accommodation and the significant injustice this caused to her and her child;
 - pay Miss X £3,500 for the injustice it caused in the 10 months she sofa surfed. This is £350 a month and is consistent with our [guidance on remedies](#);
 - confirm it will offer Miss X suitable accommodation in the local area by 3 October 2018 as it agreed to do;
 - take a homelessness application and provide Miss X with a decision and review rights. If it agrees it owes Miss X a duty it should backdate her housing register priority to 22 May 2017.
53. The Council has accepted our recommendations. The Council has taken a housing application which it back-dated to May 2017 and offered Miss X permanent accommodation in social housing, which she has accepted. Therefore, it has now formally decided Miss X is not homeless.
54. To remedy the service failures identified in this report the Council should review its procedures and:
 - tell us what action it will take to ensure it takes a homelessness application as soon as someone approaches it as homeless;
 - tell us what action it will take to ensure it meets its legal duties to find accommodation for homeless applicants; and
 - provide evidence that it is fulfilling its duties to homeless applicants who have approached it after 3 April 2018.
55. 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*)

Decision

56. We have found the Council at fault causing personal injustice to Miss X. We have made recommendations to remedy the injustice and prevent recurrence of the fault.