

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

**Investigation into a complaint against  
Basingstoke & Deane Borough Council  
(reference number: 17 012 432)**

**08 February 2019**

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## 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

Officer 1	Housing Officer
Officer 2	Senior Housing Officer

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## Report summary

### Housing: Housing Allocations

Mr X complained the Council did not give him a decision on his 2012 homelessness application and then unreasonably removed him from the housing register.

### Finding

Fault causing injustice and recommendations made.

### Recommendations

To remedy the injustice caused to Mr X we recommend the Council should:

- apologise to Mr X;
- make him top of the list for each eligible property he bids for until he makes a successful bid;
- pay Mr X £4,500 for:
  - failing to deal with his homelessness and housing applications correctly;
  - the delay in rehousing his family to settled, affordable accommodation;
  - the stressful possession proceedings he underwent;
  - the arrears of £500 he still had after the Council made discretionary housing payments; and
  - the time, trouble and distress the Council caused him.

To put matters right for other people we recommend the Council should tell people in its allocations scheme and in its housing register review decision letters about their right to complain to the Ombudsman.

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## The complaint

1. The complainant, whom we will refer to as Mr X, complains the Council:
  - failed to give him a decision on his December 2012 homelessness application;
  - unreasonably removed him from the housing register in 2015;
  - only reinstated him on the register from July 2017, refusing to backdate this to January 2013; and
  - did not tell him he could make a complaint to us.

## 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. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
4. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court. (*Local Government Act 1974, section 26(6)(c), as amended*)
5. We cannot investigate a complaint if someone has appealed to a tribunal or a government minister or started court action about the matter. (*Local Government Act 1974, section 26(6), as amended*)

## Homelessness law

6. The following is the law in force when Mr X applied as homeless in 2012.
7. If a council has ‘reason to believe’ someone may be homeless or threatened with homelessness, it must take a homelessness application and make enquiries. 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*)
8. A council will apply four tests to decide what, if any, duty it owes to a homeless 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.
9. 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*)

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10. 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.
  11. 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 seek a review and the timescales for doing so. (*Housing Act 1996, section 184*)
  12. If a council is satisfied someone is eligible, homeless, in priority need and not intentionally homeless it will owe them the main homelessness duty. The council carries out the duty by arranging temporary accommodation until it makes a suitable offer of social housing. Since 9 November 2012 councils can also end the homelessness duty by offering a minimum twelve-month suitable private sector assured shorthold tenancy. (*Housing Act 1996, section 193*)
  13. The law says councils must ensure all accommodation provided to homeless applicants is suitable for the needs of the applicant and members of his or her household. The accommodation must be affordable. This duty applies to interim accommodation and accommodation provided under the main homelessness duty. (*Housing Act 1996, section 206*)
  14. To prevent homelessness a council can suggest alternative housing solutions, where these are appropriate and acceptable to the applicant. The council should make clear to the applicant the implications and likely outcomes of available housing options. It should tell an applicant the difference between having a priority need under homelessness law and having a reasonable preference under the allocation scheme. 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 2.3 and 6.4*)
  15. In *Hanton-Rhouila and Westminster City Council* [2010] EWCA Civ 1334, the court of appeal considered if Westminster City Council was wrong to find the applicant not homeless. Ms Hanton-Rhouila made a homelessness application and alleged priority need due to her health. In this case the Council took a homeless application and at the same time accepted Ms Hanton-Rhouila onto its home finders scheme. This scheme helped people find suitable private tenancies at a reasonable rent for a minimum of twelve months. Ms Hanton-Rhouila viewed private sector properties while the Council investigated her homelessness application. Before the Council completed its investigation Ms Hanton-Rhouila accepted and signed for a twelve-month private tenancy. The Council immediately made its decision she was not homeless. The court of appeal found the Council's decision procedurally correct as Ms Hanton-Rhouila was not homeless after she accepted the property and the Council had advised her of the consequences of accepting the property.

#### **Housing Act 1996 (as amended)**

16. Every local authority in England must have a scheme for determining priorities and the procedure it follows in allocating housing accommodation (their 'allocation scheme'). (*Housing Act 1996, section 166A(1)*)
17. An allocation scheme must give reasonable preference to the following applicants:
  - homeless people;
  - people in insanitary, overcrowded, or unsatisfactory housing;

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- people who need to move on medical or welfare grounds; and
  - people who need to move to avoid hardship to themselves or others.  
(*Housing Act 1996, section 166A (3)*)

### **The Council's allocation scheme**

18. The Council is a partner in a local choice-based lettings scheme which enables housing applicants to bid for advertised properties.
19. The Council's allocation scheme in 2011 said its two key priorities were:
  - homelessness prevention and meeting statutory homelessness responsibilities; and
  - meeting the needs of vulnerable people.
20. Under the scheme the Council awarded points to applications. It gave band 2 to applicants with 50 or more points; band 3 to applicants with 30 or 40 points; and band 4 to applicants with 10 or 20 points. It defined its assessment criteria which included people threatened with homelessness; people it had a homelessness duty to; and, people with a local connection. The policy says the points are cumulative. The policy does not say what points the Council gives for each criterion. The Council has provided a Cabinet report from September 2007 proposing the move to "choice based lettings". This says the Portfolio Holder and Head of Housing will make the final decision on points and bands for the policy. The report foresees 13 housing needs categories, each adding 10 points. The Council has also provided the scheme guide it produced at the time which said it has 11 categories of need with 10 points for each.
21. The Council changed its allocations scheme in May 2015. It now gave band 2 to applicants it had accepted a homelessness duty to and those threatened with homelessness. It added applicants in private sector homes in financial hardship to band 2. However, applicants who only had a local connection and no other housing need could no longer join the register. The Council made minor amendments to the scheme in 2017 and 2018.
22. Under all versions of the scheme the Council decides priority within bands by application date. All schemes entitle a couple or single parent with two children of the same gender to two bedrooms and allow an applicant to ask for an internal review of a decision about their application. None of the Council's schemes tell applicants they can make a complaint to us.

### **Housing benefit and the benefit cap**

23. For private tenants, a council assesses housing benefit using the Local Housing Allowance. This pays a flat rate based on the area and the size of property you need. In 2012 the local housing allowance in Basingstoke for applicants who needed a two bed-room property was £695 a month.
24. In April 2013, the Government introduced a limit to the total amount of some benefits that working-age people can receive. The Government has set a different level depending on whether you live inside or outside London. Before 7 November 2016 for a couple or family living outside London the benefit cap was £350 a week. From 7th November 2016, the Government introduced a phased reduction in the benefit cap. Outside London for a couple or family the benefits cap reduced to £296.35 a week. If the benefit cap applies the Council takes the deduction from housing benefit.

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## How we considered this complaint

25. We exercised discretion to consider this complaint from December 2012. This is because of Mr X's circumstances and the allegation the Council did not give him a decision on his first homelessness application.
26. We considered information from Mr X and the Council.
27. We gave Mr X and the Council the opportunity to comment on a draft of this report. We considered the comments they made before issuing a final report.

## What we found

### What happened

28. Mr X worked abroad and lived with his wife in a privately rented flat. In late 2012 Mr X had to return suddenly to England to take care of his two daughters as the Courts removed them from the care of his ex-partner. He had to give up his job and flat. In early December 2012 he had a meeting with the Police, the Council's Social Care Team and Officer 1, a Housing Officer. His immediate problem was he had nowhere to live. A friend had let him and the children stay for a few days but this could not continue.
29. On 7 December 2012 Officer 1 filled out a Housing Options form for Mr X and a checklist for the Council's rent bond approval. Officer 1 said Mr X needed a two-bedroom property immediately and had no money for rent in advance or fees. She said Mr X was eligible for assistance, homeless, had a priority need and was not homeless intentionally.
30. On 14 December Mr X told the Council his friend had asked him to leave. The Council contacted the friend who agreed Mr X could stay until 17 December. Mr X completed a housing register application. The Council placed Mr X and his children in bed and breakfast accommodation on 17 December.
31. On 18 December Officer 2, a Senior Officer, emailed a Housing Association to ask it to provide accommodation for Mr X. He said the Council had a full housing duty to Mr X.
32. On 21 December 2012 the Council showed Mr X a self-contained property but it was not big enough. The Council told Mr X about a possible three-bedroom property. The Council officer noted she told Mr X this was only a possibility as the Council had to confirm to the landlord it would pay the extra rent as Mr X was a two-bedroom need. The same day Mr X left the country to sort out his affairs abroad. He returned on 7 January 2013. The Council Officer told Mr X to come to the Council office on 7 January.
33. On 7 January 2013 Mr X signed a six-month assured shorthold tenancy with the landlord. He still lives in this property. Mr X complained about the standard of the accommodation and said the carpets were filthy and it had no furniture. The Council's Social Care Team gave Mr X two inflatable beds for the children.
34. Neither the Council or the landlord sent Mr X an offer letter. Mr X says he told the Council he could not afford the rent of £850 a month and it would prevent him getting a job. The Council says it did not offer Mr X this property, it referred him to the landlord under its rent bond scheme.
35. Officer 1 made a note of a conversation she had with Mr X on 9 January 2013 when he complained about the condition of the property. She said:- *"I advised that*

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*I appreciate it's a difficult situation but we have fulfilled our duty in providing him housing as he is homeless”.*

36. The Council filled out a new housing register application for Mr X and said he was a council tenant. The Council put Mr X's housing application in band 4 with 10 local connection points. Mr X made bids for properties but his band 4 priority meant he was unsuccessful.
37. In July 2014 Mrs X joined Mr X and he added her to the application.
38. In 2014 the landlord increased the rent to £900 a month. In 2015 the benefits cap affected Mr X's claim and his housing benefit reduced.
39. In 2015 the Council changed its allocations scheme. In June 2015 it asked Mr X for financial information; which he provided. In 2015 Mrs X gave birth to twins. Mr X told the Council and added them to the application. In August the Council sent Mr X a letter and said it had assessed his housing application and he was in band 4 with 10 points and needed three bedrooms. In October 2015 the Council decided Mr X could afford the private rent and said how it considered he could economise. Under its new policy it removed him from the housing register.
40. In February 2016 Mr X made a new housing application because he was getting into arrears because of the benefit cap. The Council asked Mr X for financial information. The Council says Mr X did not provide this so it took no action. Mr X applied again in October 2016. The Council asked Mr X for financial information it says he did not provide so it took no action.
41. The Council made discretionary housing payments to Mr X's landlord to meet some of the shortfall between his rent and housing benefit.
42. Mr X's landlord increased the rent again in October 2016 to £1,025 a month. Mr X says the landlord did not tell him until July 2017 when it sent a rent statement. His arrears increased.
43. In July 2017 Mr X applied again to join the housing register. The Council asked for financial information which he provided. The Council decided he could not afford the rent. It registered his application in band 2 from July 2017. Mr X asked for a review of this decision. He said the Council should backdate his application and band to January 2013 when the Council placed him in his current home under its homelessness duty. Mr X engaged a Solicitor who also wrote to the Council. The Solicitor said in 2013 Mr X approached the Council for housing assistance and it provided his current home.
44. Officer 1 dealt with the review. On 4 October 2017 she wrote to Mr X's Solicitor to say she was “minded to” uphold the Council's decision. The Solicitor replied the Council placed Mr X in his current home as temporary accommodation because he was homeless. The Solicitor said the Council had not given Mr X a decision on his homelessness application and so his accommodation remained temporary. The Solicitor said the Council put Mr X on the housing register in 2013 due to homelessness and should not have removed him from it.
45. Mr X worked with the Council's Homeless Prevention Team to find cheaper accommodation. On 5 October 2017 the Homeless Prevention Team referred Mr X and his family to another social housing provider for one room in a hostel where the family would share the kitchen and bathroom with other people. It said this would be more affordable than Mr X's current home as the rent was £176 a week. Mr X said he had been in temporary accommodation since 2013. The Senior Homeless Prevention Officer replied the Council would class the room as

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- alternative temporary accommodation. Mr X was not happy with the alternative accommodation suggested.
46. On 5 October Mr X asked the Council for a backdated discretionary housing payment as he did not know about the last rent increase.
47. On 10 October Officer 1 sent Mr X her review decision on his housing application. She did not change the decision and said his application and band 2 date remained July 2017. In response to Mr X's and his Solicitor's argument the Council had not ended its homelessness duty to Mr X she said: -
- "Mr X approached the council for housing assistance on 7 December 2012. He had returned to the UK to take care of his children after they were removed from their mother's care. Mr X and the children were staying with friends as a short term measure. This accommodation ended on 18 December 2012 and the family were accommodated in emergency accommodation."*
- "The council initiated their enquiries pursuant to s184 from the date of his initial approach. While the enquiries were continuing, Mr X was offered the accommodation (he lives in). He accepted this offer and moved into the accommodation on 7 January 2013."*
- "A s184 letter does not appear to have ever been issued. The council accept that once a duty to make enquiries has arisen under s184, it is not able to cease enquiries simply because an applicant has accepted rented accommodation."*
- "This was a procedural error by the council in not having issued a decision to close off the housing application. While the council accept this should have been done, it is notable that no legal challenge was made regarding this within the relevant time."*
- "As no decision was taken to accept any duty to Mr X at this time there is no continuing housing duty towards him."*
48. On 19 October 2017 Mr X received a notice seeking possession because his rent arrears were £3,540.
49. On 3 November the Council took a homelessness application because of the notice seeking possession. On 21 November it accepted a homelessness duty and offered Mr X the same hostel room with shared bathroom and kitchen as temporary accommodation. Mr X refused this. On 24 November the Council told Mr X it has ended its homelessness duty to him because he had refused a reasonable offer of temporary accommodation. Mr X's Solicitor asked for a review of this decision and then appealed to court. We cannot consider this second homelessness application as Mr X used his right of appeal.
50. The court listed Mr X's possession hearing for 5 March 2018. On 26 February the Council agreed Mr X's application for a backdated discretionary housing payment towards the rent. It paid the landlord £2,241. This left Mr X with arrears over £500. The landlord said he would ask the court to adjourn the possession hearing on condition Mr X paid £5 a week towards the arrears.
51. In August 2018 Mr X applied for another discretionary housing payment to cover the shortfall in the rent. In October 2018 the landlord again summonsed Mr X for rent arrears. The landlord's solicitors confirm Mr X paid the £5 a week but says the landlord renewed the action because there was a shortfall in the rent from the end of July until October. The landlord's solicitor says the Council paid a backdated discretionary housing payment on 15 October 2018 and so the solicitor

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asked for an adjournment of the hearing. Mr X agrees the Council wrote to him in mid-October to say it had agreed the discretionary housing payment.

52. The Council says the landlord's solicitors are wrong and it made the payments in full. The Council has provided evidence from November 2018 that it paid Mr X a discretionary housing payment covering July to November 2018. It has not provided evidence of when it paid this.
53. The Council has now sent us a copy of a letter addressed to Mr X dated 18 January 2013. This says it has found Mr X not homeless because he has an assured shorthold tenancy secured under the Council's rent bond scheme. The letter gives Mr X his review rights. The Council now says it sent Mr X this letter. The Council says it has no proof it posted this to Mr X, but as it wrote it and filed it electronically on 22 January 2013, it is reasonable to assume it sent it. Mr X says he never received this letter.
54. Between 1 July 2017 and 27 February 2018 the Council allocated 177 properties it says would be suitable for Mr X to band 2 applicants. The successful applicants had waiting times of between 1 month and over 100 months. Most applicants waited between 20 and 35 months. If Mr X had remained in band 2 from January 2013, he would have waited 55 months by July 2017.

#### **The Council's response to us**

55. The Council says its Housing Options form of 7 December 2012 and email of 18 December 2012 use incorrect terminology which could cause confusion. It says we should not treat these documents as a decision. It says their existence could not cause injustice to Mr X as he did not know about them so the Council did not give him a false impression of the duty it owed to him.
56. The Council says it had to make a fully considered decision taking into account all issues and it is not unreasonable that a delay arose in sending Mr X its decision letter. It further says the Christmas holidays had an impact on Mr X's case. It cites *Hanton-Rhouila v Westminster City Council*. The Council says it had to consider the facts as they stood on 18 January 2013 when it made its decision. It says on 18 January 2013 Mr X had moved into accommodation so was not homeless.
57. The Council says it referred Mr X to the landlord but the Council did not offer Mr X the accommodation, the landlord did.
58. The Council says if it had accepted a homelessness duty to Mr X in 2013, his housing application would have still been in band 4. It says at the time it gave 10 points when it accepted a homelessness duty, so it would have given Mr X's application 20 points. It says Mr X was unlikely to make a successful bid while in band 4.
59. The Council says under its 2015 policy Mr X had no reasonable preference so it closed his housing application.
60. The Council said neither Mr X nor his Solicitor raised the issue of the Council's acceptance of Mr X's homelessness application when asking for a review of the housing register decision. It says they only raised this after it issued the review decision.
61. The Council says if it accepted Mr X as homeless this would not mean it would necessarily have made him an offer from his housing application. It might have offered him a twelve-month private tenancy or Mr X might have made his own arrangements.

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62. The Council says it made a mistake when it said it had not given Mr X a decision on his 2012 homelessness application. It says it is willing to provide a remedy for this. Otherwise it says it followed the correct law and procedures when dealing with the application and caused no injustice to Mr X.
  63. The Council says it has paid more than £10,000 to Mr X's landlord in discretionary housing payments and we should consider this if we consider it should provide a remedy to Mr X.

## Conclusions

64. In early December 2012 the Council knew it owed Mr X the main homelessness duty, its internal records say this. The records do not use incorrect terminology; they state the facts at the time. We are satisfied the Council had completed its enquiries in December 2012, it was not waiting for more information and it knew it owed Mr X the full duty. The Council should have sent Mr X a notice accepting it owed him the main housing duty in December 2012. It did not do this. Instead it arranged a property available on a six-month assured shorthold tenancy. Mr X had nothing to do with finding this property. He was out of the country from the day the Council told him it was a possibility until 7 January 2013 when the Council told him to come to the office and he signed for it. The Council did not send Mr X an offer letter or tell him it intended to find him not homeless if he signed for the property.
65. We do not accept the decision in *Hanton-Rhouila v Westminster City Council* applies. In that case the Council was still investigating the homelessness application when the applicant accepted a twelve-month private tenancy. Westminster City Council told the applicant the consequences of taking a private sector tenancy. In this complaint the Council had completed its investigation, decided it owed Mr X the main homelessness duty, then found him a six-month private tenancy, then wrote the decision he was not homeless. The Council has no evidence it discussed with Mr X if its approach in finding a six-month tenancy was acceptable to him or that it advised him of the consequences of accepting that accommodation.
66. We do not accept the Council's argument that its need to consider all the issues and the Christmas holidays meant it was not in position to send Mr X a decision letter between 7 December 2012 and 7 January 2013. It had made a decision by 7 December 2012. When a council sends notice accepting a homelessness duty it does not have to give reasons; it sends a relatively simple letter which it is likely to have a template for.
67. Before the Council made a decision on Mr X's homelessness application it had a duty to provide him with interim accommodation. If the Council had acted correctly and given Mr X the decision it owed him the main housing duty, the self-contained accommodation it found for him would have been temporary accommodation. It would have remained temporary accommodation until the Council made Mr X an offer under the allocation scheme or settled accommodation under its homelessness duty.
68. When a council provides temporary accommodation, the applicant can ask for a review of its suitability. Mr X told the Council the property was not suitable. The Council's actions denied Mr X the right of review. Instead of reviewing suitability the Council told him he was in a "difficult situation". However, despite the Council now saying it had no housing duty to Mr X and no part in offering him

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- accommodation, its notes say it told Mr X the Council had fulfilled its duty by providing him with accommodation.
69. The Council did not prevent homelessness, it had already decided Mr X was homeless. The Council could not end its main homelessness duty by the offer of a six-month assured shorthold tenancy. The tenancy had to be a minimum of 12 months.
  70. The Council is at fault as it denied Mr X his full housing rights as a homeless person the Council had a duty to assist. Although the Council has now found a letter dated 18 January 2013 saying Mr X was not homeless, the balance of the evidence is it did not send this. Mr X says he did not receive it and we accept this. When Mr X received other decisions he considered wrong, he used his review or appeal rights.
  71. Officer 1 who dealt with Mr X's homelessness application in 2012 and housing register review in 2017 said the Council had not issued it. The Homelessness Prevention Team was not aware of it and offered Mr X a room in a hostel as alternative temporary accommodation. If sent, the letter would be unlikely to withstand a review or court appeal as Mr X was homeless.
  72. The Council says if it had accepted a homelessness duty to Mr X this would only result in 10 extra points and his housing application would have remained in band 4. The Council says Mr X would not have made a successful bid from band 4.
  73. One of the two main priorities for the allocations policy was homelessness prevention and meeting statutory homelessness responsibilities. We cannot see how the Council could meet one of its overriding priorities by giving 10 points to applicants it has a homelessness duty for. This would mean a homeless applicant without other needs had no chance of a successful bid. As the Council treated applicants with 10 and 20 points the same; an applicant who was homeless had no more priority than someone with no housing need but a local connection.
  74. In 2015 the Council changed its allocations scheme. Under this scheme the Council gave band 2 to applicants it owed a homelessness duty to. It also gave band 2 to applicants who could not afford their private rent. The Council removed Mr X from the housing register as it decided he could afford the £900 a month rent. If the Council had not denied Mr X his full homelessness rights in 2012, Mr X would have band 2 under this policy. The Council then would not have asked Mr X for financial information.
  75. In 2017, after again asking for personal information, the Council decided Mr X could not afford his rent and gave him band 2 from July 2017. Mr X asked for a review of this. Mr X and his Solicitor did raise Mr X's homelessness status in the review. In reply to the review the Council accepted it had not sent Mr X a letter to end its homelessness duty.
  76. The Council did not deal with the consequences of this. It said because it had not made a decision on Mr X's application it had no continuing housing duty. This is wrong. Until the Council made a final decision on his homelessness application it had a duty to provide Mr X with interim accommodation. The Council said it was notable Mr X had not made a legal challenge within the relevant time. Mr X could not appeal against the decision until he received it. The time limit runs from when an applicant receives a decision.
  77. When his landlord applied for possession because of rent arrears Mr X should not have needed to make a new homelessness application. At this point the Council accepted it had not sent him a decision on his 2012 application.

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78. A person with a housing need unhappy with a council's decision on a housing register application can complain to us. This applies even if they have had an internal review of the decision. The Council's allocation scheme does not say this.
79. The Council did not tell Mr X he could complain to us. This is fault. It did not cause Mr X significant injustice as he found this out himself.

### **Injustice**

80. The Council caused injustice to Mr X as it should have given him the band 2 priority he was entitled to under the 2015 allocations scheme. He should have kept the band 2 until the Council made him an offer that met its homelessness duties or an offer from its allocations scheme. The Council's 2011 allocation scheme only gave band 4 to homeless applicants. Under the 2015 scheme it gave band 2. However in 2015 the Council wrongly removed Mr X from the allocations register. It prevented Mr X making a successful bid for social housing.
81. The Council says if it had accepted the homelessness duty it could have offered a twelve-month private sector tenancy to discharge its duty. This is true. However, it is due to the Council's actions it missed the opportunity to do this.
82. The accommodation the Council provided was suitable in size and location. However, it was expensive and as Mr X's housing benefit reduced it became unaffordable. If Mr X had band 2 for his homelessness status it is likely he would have made a successful bid. He would not then have faced having to apply for discretionary housing payments and the possession proceedings for rent arrears. He would not have needed to provide personal information to the Council about his finances to show he could not afford the rent. The Council would have rehoused him before it offered him one room with shared kitchen and bathroom as alternative accommodation.
83. The Council asks us to consider the large amount of money it paid Mr X's landlord in discretionary housing payments. Mr X gained no financial benefit from this. It is the Council's fault it paid so much public money to the landlord. If the Council had acted correctly it would have rehoused Mr X and would not have needed to continue the payments.

### **Recommendations**

84. To put matters right for Mr X we recommend the Council should:
- apologise to Mr X;
  - make him top of the list for each eligible property he bids for until he makes a successful bid;
  - pay Mr X £4,500 for:
    - failing to deal with his homelessness and housing applications correctly;
    - the delay in rehousing his family to settled, affordable accommodation;
    - the stressful possession proceedings he underwent;
    - the arrears of £500 he still had after the Council made discretionary housing payments; and
    - the time, trouble and distress the Council caused him.

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85. To put matters right for other people we recommend the Council should tell people in its allocations scheme and its housing register review decision letters about their right to complain to the Ombudsman.
  86. 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**

87. We have completed the investigation and uphold this complaint. There was fault by the Council which caused injustice to Mr X. The Council should take the action identified in paragraphs 84 and 85 to remedy that injustice.