

The Ombudsman's final decision:

The Council has kept Mr X and his family in unsuitable interim accommodation for longer than the allowed six weeks. It has delayed in reaching a decision on his homelessness application and has failed to issue a section 184 decision notice.

The complaint

1. The Council had failed to make a decision on a homelessness application and has kept Mr X and his family in unsuitable interim accommodation for longer than allowed by statute.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints of fault where someone says it has caused them injustice. If the Ombudsman finds fault but no injustice, she will not ask a council to provide a remedy. If she finds both fault and injustice, she may ask for a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. The Ombudsman investigates complaints of injustice caused by fault. She can consider the way an authority makes its decisions, but it is not her role to comment on them unless they have been taken with fault. (*Local Government Act 1974, section 34(3)*)
4. The Ombudsman has the power to decide whether to start, continue or discontinue an investigation into any complaint. (*Local Government Act 1974, section 24A(6)*)

How I considered this complaint

5. As part of the investigation, I have:
 - considered the complaint and the documents provided by the complainant;
 - made enquiries of the Council and considered the comments and documents the Council provided;
 - discussed the issues with the complainant.

What I found

6. Mr X's landlord served a Notice Seeking Possession (NOSP) in May 2012. On 17 August 2012 Mr X received a possession order. He attended an interview at the Council on 11 September and a homelessness application was made.
7. The Council told Mr X and his family the only interim accommodation available was bed and breakfast accommodation in Peterborough. Mr X was not happy with

this because he and his wife worked in Cambridge and his oldest child attended school there. However, he accepted this interim accommodation knowing legislation meant he could only be there for a maximum of six weeks.

8. On 15 November 2012, Mr X visited the Council offices and an officer helped him to complete a letter of complaint. Mr X complained that he had been in bed and breakfast accommodation for more than six weeks. The Council responded on 23 November saying Mr X was on a waiting list for temporary accommodation in Cambridge and it hoped to move him back soon. The Council said it was moving people back to Cambridge in date order.
9. On 7 December Mr X's MP, Julian Huppert contacted the Council on his behalf again raising the issue of the placement in bed and breakfast accommodation. On 18 December Mr X and his family were moved to accommodation in Cambridge. The family had one bedroom and shared bathroom and kitchen facilities.
10. On 11 January 2013 the Council wrote to Mr X seeking bank statements dating back to November 2010. Mr X could not provide all the information sought but did attend a Citizens' Advice Bureau with some bank statement and provided a statement explaining why they could not provide all the statements.
11. On 17 January 2013, Julian Huppert, MP, wrote to the Council asking why it was taking so long to finish the homelessness investigations and issue a section 184 notice. The Council replied saying its investigations were focussed on finance issues and the fact the family may have made themselves intentionally homeless. It accepted there had been delays in October and November and apologised. It said it was waiting for information from Mr X and would then be able to make further progress on the case.
12. Frustrated by the failure of the Council to make a decision on his homelessness application, Mr X complained to the Ombudsman.

Analysis

13. When a person applies for accommodation and the council has reason to believe they may be homeless or threatened with homelessness, a number of duties arise. These duties include making enquiries, notifying the applicant of the decision in writing and, in certain circumstances, securing suitable accommodation awaiting the outcome of the enquiries.
14. The Homelessness Code of Guidance for Local Authorities, issued by the Government in 2006, recommends that housing authorities aim to complete their enquiries within 33 working days.
15. The Homelessness (Suitability of Accommodation)(England) Order 2003 provides that bed and breakfast accommodation is not suitable accommodation for families with children unless there is no alternative accommodation available and then only for a maximum of six weeks.
16. The Council accepted Mr X's homelessness application on 11 September 2012. I wrote to the Council on 8 March 2013 setting out a proposal to settle this complaint. One of my recommendations asked the Council to make a decision on Mr X's application within 14 days. The Council wrote to Mr X on 20 March with a decision. While there are no statutory timescales for determining a homeless application, the code of guidance does suggest 33 working days. The Council has failed to meet this timescale by some considerable way. It accepts there were delays in October and November but provides no mitigation for these delays. Information provided shows the Council did not seek further information

directly from Mr X until 11 January 2013, four months after the application was made. This delay amounts to maladministration.

17. Mr X, his partner and two children have been living in interim accommodation since 3 October 2012. Initially the Council housed them in bed and breakfast accommodation in Peterborough. Mr X complained about the location and the length of time he was accommodated and he was eventually moved on 18 December 2012.
18. Mr X now lives in a hostel in Cambridge. Mr X and his family were housed in bed and breakfast accommodation for more than the allowed time of six weeks. Mr X complained about this but remained in unsuitable accommodation for five weeks longer than he should have. The Council's action of accommodating Mr X in unsuitable accommodation for more than six weeks is maladministration.

Agreed action

19. To remedy this complaint I recommend the following:
 - take immediate action to determine Mr X's homelessness application and issue a section 184 notice. I am satisfied the Council has now taken this action;
 - pay Mr X £250 to compensate him for being accommodated in unsuitable accommodation for more than the allowed six weeks. This amounts to £50 per week;
 - pay Mr X £100 to acknowledge the uncertainty caused to him by the failure to determine his homelessness application;
 - pay Mr X £150 to acknowledge his time and trouble in pursuing the complaint;
 - apologise to Mr X for the failings in this case;
 - consider a review of homelessness practice, including any necessary staff training, to ensure timely decision making and appropriate use of interim accommodation.

Final decision

20. I will not pursue the complaint further as the Council has agreed to take the action outlined above.

Investigator's final decision on behalf of the Ombudsman