

Complaint reference:
14 007 475

Complaint against:
Cambridge City Council

The Ombudsman's final decision

Summary: The Council is at fault for failing to make homelessness decisions in the correct manner. This meant rights of review and appeal were denied. It also took longer than the recommended 33 working days to determine a homelessness application without good reason for the delay and delayed in taking possession action.

The complaint

1. Mrs X complains the Council refused to accept a homeless application even though it knew she was occupying a property that was being illegally sublet. Delay by the Council in taking possession action against the tenant who was illegally subletting meant she lived in unsuitable conditions, facing harassment for longer than was necessary.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)

How I considered this complaint

4. 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's representative;
 - sent my provisional view to both the Council and the complainant's representative and invited their comments.

What I found

5. Ms X was renting a property from a private landlord, Ms Z. She had a tenancy agreement and paid rent every month. In September 2013 representatives from

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- the Council visited the property to talk to Ms X. During this meeting, Ms X found out it was actually a council property which Ms Z was illegally subletting.
6. That afternoon, Ms X visited the Council offices seeking advice on her housing situation and options. The Council's notes of the meeting show the Council did not take a homelessness application. The discussion included information about temporary accommodation and that this is only available in Peterborough. The housing officer said that she should come back and make a homelessness application if she was asked to leave the property.
 7. On 23 September Ms X contacted the Council again. She said she was being harassed. The Council arranged an appointment for Ms X to meet its housing enforcement officer. Ms X also applied to join the Council's housing register. The Council provided Ms X with details of the further information it required to verify her application.
 8. Ms X met with the housing enforcement officer and made a formal statement about the harassment. The Council's notes of the meeting say Ms X did not want the Council to take any action at that time.
 9. Ms X's solicitor, Mr Y, contacted the Council on 28 October. In his email, Mr Y asked the Council to consider Ms X as "homeless at home" rather than place her in temporary accommodation. The Council says that in response to this, it delayed taking action to repossess the property Ms X was living in. It says it hoped Ms X would quickly provide information so she could join the housing register.
 10. Ms X attended a meeting with a housing advisor on 1 October. Following the meeting the Council wrote to Ms X on 8 November detailing the discussions. In the letter the Council refers to homelessness and says "I had no reason to believe you were homeless or threatened with homelessness within 28 days".
 11. In November, Mr Y submitted formal complaints to the Council about how it was dealing with Ms X's case. The Council again stated Ms X was not threatened with homelessness with 28 days. It said it was looking into the harassment issues and was seeking information from the police.
 12. Ms X provided the necessary information to enable her to join the housing register on 5 December 2013. The Council awarded Ms X band A priority, the highest category.
 13. On January 20 the Council accepted a homelessness application. On 5 February an officer contacted Ms X saying temporary accommodation was available. Ms X contacted the Council on 24 February and was placed in temporary accommodation.
 14. In May the Council offered Ms X a two bedroom property. Her tenancy began on 25 May 2014. On 6 June the Council wrote to Ms X with the decision on her homelessness application. The Council said it had no duty to house Ms X as she was adequately housed.
 15. The Council's Independent Complaints Investigator wrote to Mr Y in response to his formal complaint. She did not uphold the complaint.

Analysis

16. Ms X complains the Council failed to take a homelessness application when she first visited the offices in September 2013. The homelessness code of guidance states "if a housing authority has reason to believe that a person applying to the

authority for accommodation or assistance in obtaining accommodation may be homeless or threatened with homelessness, the authority must make such inquiries as are necessary to satisfy itself whether the applicant is eligible for assistance” .

17. The Council says a homelessness application was not taken on this date because Ms X was not threatened with homelessness within 28 days. The information provided shows the officer who spoke with Ms X was only able to reach this view after making inquiries of another housing officer. I consider the Council made a homelessness decision on this day but failed to issue a decision notice in the required way. A written decision would include details of how Ms X could challenge the decision if she disagreed with it. By making a decision but failing to put this in writing, the Council has denied Ms X her rights of review and appeal. I consider this to be fault.
18. On 28 October Ms X’s solicitor, Mr Y, asked the Council to treat Ms X as “homeless at home”. He was arguing that while Ms X had accommodation it was not reasonable for her to continue to live there. I am not persuaded the Council properly responded to this request. It did not make inquiries about Ms X’s current circumstances.
19. The Council’s letter of 8 November makes no reference to the “homeless at home” request or the harassment Ms X had reported previously. The letter does state Ms X is not threatened with homelessness within 28 days. I consider this was the Council again making a homelessness decision without following the statutory procedure and providing a written decision with all rights of review and appeal explained. I consider this to be fault.
20. The Council says that in response to Mr Y “homeless at home” request it delayed taking further possession action. It says this was to give Ms X time to provide supporting information so she could successfully bid for properties. I cannot see the connection between these two actions. The Council had told Ms X it would not treat her as homeless until possession was granted. It then delayed progressing the possession action. Whether Ms X was accepted onto the housing register is a separate matter to her homelessness situation. I am not persuaded the Council was justified in delaying the possession action for the reasons given. I take the view the Council was at fault to delay the possession action.
21. Ms X and Mr Y say the Council did not properly respond to her reports of harassment. The information I have seen shows Ms X first reported harassment in September but that she asked the Council not to take further action at that time. The Council later sought information from the police about an incident Ms X reported. The police responded to the Council saying it had no records. It appears this information was not correct but this was the fault of the police so I cannot criticise the Council.
22. The Council accepted Ms X’s homelessness application in January 2014 after the court granted possession of the property. The homelessness code of guidance says that an authority is obliged to begin inquiries straight away after accepting a homelessness application. It says an authority should aim to complete its inquiries and notify the applicant of the decision within 33 working days. It says that in many cases it will be possible for inquiries to be completed significantly earlier.

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23. In this case the Council took until 6 June to notify Ms X of the decision on her homelessness application. I have no information to indicate why the decision was not completed sooner. The Council had firsthand knowledge of the court action to gain possession of the property and so I can see no reason why the decision took so long. I consider this delay to be fault.
24. The homelessness function is part of a council's statutory duty. How it deals with applications and makes decisions is set out in legislation. A Council cannot choose which parts of the legislation to follow. If a decision is made then it has to be communicated in the prescribed manner. Failure to do so and to include rights of review and appeal is fault. The facts in this case show the Council has not made homelessness decisions and communicated them in the correct way. This has resulted in lost opportunities for Ms X and denied her rights of review and appeal.

Agreed action

25. To remedy the fault in this case I recommend the following action by the Council:
- A written apology for the failings in this case;
 - Pay Ms X £300 to recognise her lost opportunities by failing to provide proper written decisions that she was not threatened with homelessness and for denying her rights of appeal;
 - Pay Ms X £100 for failing to determine the January 2014 within the recommended timescales without good reason; and
 - Pay Ms X £100 for the delay in taking possession action.

Final decision

26. As the Council agreed to the recommendations above, I will not pursue the complaint further.

Investigator's decision on behalf of the Ombudsman