



To: Executive Councillor for Housing: Councillor Kevin Price
Report by: Head of Legal Services, Director of Customer and Community Services
Relevant scrutiny committee: Housing 14/01/2015
Scrutiny Committee
Wards affected: All

FINDINGS OF MALADMINISTRATION BY THE LOCAL GOVERNMENT OMBUDSMAN: HOMELESSNESS
Not a Key Decision

1. Executive summary

- 1.1 The Local Government Ombudsman has made a finding of maladministration following a complaint. The complaint relates to the Council's homelessness functions.
- 1.2 In these circumstances, the Head of Legal Services, as the Council's Monitoring Officer, has an obligation to report the findings to the Executive. The Executive is obliged to set out what action has already been taken in respect of the findings, what action it intends to take and the reasons for taking the action.
- 1.3 This report summarises the complaint, acknowledges that there were shortcomings in relation to working practices and sets out the action taken in response.
- 1.4 The Executive Councillor is asked to consider the action taken and to decide whether it is adequate or whether further steps should be taken.

2. Recommendation

To endorse the actions taken by officers in response to the finding of the Local Government Ombudsman.

3. The Complaint and the Ombudsman's Decision

- 3.1 The Ombudsman's decision letter forms Appendix A to this report. The complainant is referred to as Mrs X. The Ombudsman summarises the complaint in these terms:

"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."

- 3.2 The background to the complaint is this. Mrs X was renting a house from a private landlord, Ms Z. In September 2013, it came to the Council's attention when visiting Mrs X, that Ms Z, a Council tenant, was illegally subletting his Council home to Mrs X.
- 3.3 Mrs X visited Council offices that afternoon to discuss her housing situation and options. The housing officer did not take a homelessness application, on the basis that Mrs X did not appear to be threatened with homelessness, but said she should come back and make a homelessness application if asked to leave the property. The Ombudsman's decision is that, in concluding that Mrs X did not appear to be threatened with homelessness, the Council was making a decision on her homelessness status, and that this needed to be done formally. The Council should have issued a formal decision, which would have triggered rights to a review of the decision, and further rights of appeal. By not dealing with this in the formal manner prescribed by legislation, the Ombudsman concludes that the Council has denied Mrs X her rights of review and appeal.
- 3.4 Later in September, Mrs X visited Council offices to say that she was being harassed. This led to a meeting with the Council's housing enforcement officer but Mrs X said she did not want the Council to take action at that time. Mrs X also applied to join the housing register and the Council explained what further information Mrs X needed to supply.
- 3.5 On 28 October 2013, Mrs X's solicitor wrote to the Council asking it to treat Mrs X as being "homeless at home". This was on the basis that she had somewhere to live but that it was not reasonable for her to continue to live there.
- 3.6 The Council responded on 8 November to say that Mrs X was not threatened with homelessness within 28 days. The Ombudsman says

that she is not persuaded that the Council responded properly to the request from Mrs X's solicitor, as it did not make inquiries about her current circumstances. The Ombudsman also says that the Council was again making a homelessness decision without following the statutory requirements, with the effect that Mrs X was not informed of her rights of review and appeal.

3.7 The Council had already served notice to quit on the tenant who was illegally subletting. It had told Mrs X that it would not treat her as homeless until possession was granted. In response to the "homelessness at home" request, the Council delayed taking court action to recover the property. This was intended to give Mrs X more time to complete her housing register application and to bid for properties. The Ombudsman's view is that the Council should not have linked Mrs X's housing needs application with her homelessness application. The Ombudsman concludes that the Council was at fault for delaying the possession action, which delayed the point at which it would consider Mrs X to be threatened with homelessness.

3.8 In January 2014, the Council obtained a possession order to recover the property that had been illegally sublet. At this point the Council accepted a homelessness application from Mrs X and provided her with temporary accommodation. In May 2014 she was offered a two bedroom property and her tenancy began on 25 May. On 6 June, the Council made a formal determination of Mrs X's homelessness application. This was that the Council had no duty to house Mrs X, as she was adequately housed. The Ombudsman is critical of the time taken to issue the homelessness decision. The homelessness code of practice says that councils should aim to complete their enquiries and notify the applicant of their decision within 33 working days. The period taken in this case was considerably longer.

3.9 The Ombudsman's decision letter comments:

"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."

3.10 The Ombudsman has recommended 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.*

The Ombudsman's recommended actions have been agreed.

4. Response to the Ombudsman's findings

Whilst the homelessness service was seeking to obtain the best housing outcome for Ms X, we accept the Ombudsman's conclusions.

At the Housing Scrutiny meeting on 30 September 2014, the Executive Councillor and the Scrutiny Committee considered three other Ombudsman findings relating to homelessness. The events described in this report took place some months before that date. The report to the September meeting identified a number of actions which have already addressed some of the issues set out in this report; in particular, the need to ensure that homelessness decisions meet the 33 working day target.

We are undertaking a review of homelessness procedures, which will include:

- Identifying clearly the circumstances in which the Council needs to treat an approach formally as a homelessness application;
- Ensuring that applicants are informed of their rights of review and appeal;
- Giving guidance about the need to keep separate consideration of the Council's homelessness duties and consideration of a housing needs application from the same person;
- Ensuring that homelessness decisions meet the 33 working day target.
- Guidance to staff on the point at which an applicant is considered to be homeless and when the Council's duties to provide Interim Accommodation arise
- Introduce a more structured and consistent approach to housing options interviews and ensure that written advice is provided in a timely manner

- Deliver further staff training on all of the above

The Housing Advice Service is now systematically monitoring all homelessness casework so that inactivity on any particular case or longer stays in temporary accommodation can be identified at the earliest opportunity

5. Implications

- (a) **Financial Implications.** The total compensation recommended by the Ombudsman, and paid or credited by the Council, is £500.
- (b) **Staffing Implications.** The Council needs to make sure it has appropriately skilled staff to meet its homelessness duties, to ensure the workloads of those staff are managed effectively and that they are adequately trained. The actions described in this report have sought to address these themes. They have also sought to support staff to deliver a sensitive service, to people with a range of complex needs, at a time of acute housing stress.
- (c) **Equality and Poverty Implications.** An equality impact assessment has not been carried out in respect of this report. However, it is clearly the case that groups with protected characteristics and those in poverty are going to be significantly represented amongst those seeking assistance with homelessness from the Council.
- (d) **Environmental Implications.** This report has no climate change impact.
- (e) **Procurement.** There are no procurement implications.
- (f) **Consultation and communication.** The Monitoring Officer is obliged to consult the Head of Paid Service (Chief Executive) and the Chief Finance Officer (Head of Finance) in preparing this report, and has done so.
- (g) **Community Safety.** There are no direct community safety implications, but a failure by the Council to discharge its homelessness responsibilities could give rise to community safety issues, given the vulnerability of some of those seeking assistance.

6. Background papers

The Ombudsman decision letters are appended to this report.

7. Appendices

Local Government decision letter.

8. Inspection of papers

To inspect the background papers or if you have a query on the report please contact:

Author's Name: Simon Pugh. Head of Legal Services
Author's Phone Number: 01223 - 457401
Author's Email: simon.pugh@cambridge.gov.uk