

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

OVERVIEW AND SCRUTINY COMMITTEE – 8 MAY 2024

**CHIEF SOLICITOR AND MONITORING OFFICER
DIRECTOR OF HOUSING NEEDS**

REPORT OF THE LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN

Under the Local Government and Housing Act 1989, the Council's Monitoring Officer is required to report to the Leadership Team any finding by the Local Government and Social Care Ombudsman of maladministration by the Council.

On 15 February 2024 the Council received the Ombudsman's final decision following a complaint about the way in which the Council had dealt with a homelessness application. On 14 March 2024, the Ombudsman published a summary of the decision on their website.

The Committee is invited to:

- note the Ombudsman's findings and the steps which the Council has taken and will take in response to those findings and the Ombudsman's recommendations.

FOR DISCUSSION

1. EXECUTIVE SUMMARY

- 1.1 Under the Local Government and Housing Act 1989, the Council's Monitoring Officer is required to report to the Leadership Team any finding by the Local Government and Social Care Ombudsman of maladministration by the Council.
- 1.2 On 15 February 2024 the Council received the Ombudsman's final decision following a complaint about the way in which the Council had dealt with a homelessness application. On 14 March 2024, the Ombudsman published a summary of the decision on their website.
- 1.3 The Ombudsman has made a finding of maladministration and published a Public Interest Report, following a complaint. Public Interest Reports are uncommon and this is only the second Public Interest Report that the Council has received in the last 5 years.
- 1.4 The Council is legally required to consider the Ombudsman's report. The Council wants to learn from complaints and to review its processes so that similar complaints are not made in future and residents are not adversely impacted.

2. RECOMMENDATION(S)

2.1 The Overview and Scrutiny Committee is asked to:

- note the Ombudsman's findings and the steps which the Council has taken and will take in response to those findings and the Ombudsman's recommendations.

3. BACKGROUND

3.1 The details of the complaint and the Ombudsman's decision are set out in Appendix B which accompanies this report. The complaint was about the way in which the Council dealt with a homelessness application for a resident who fled domestic abuse. The issues raised by the resident in the complaint were identified by the officer who responded to the Stage Two complaint and addressed. However, the Housing Needs Service did not offer any compensation, nor was temporary accommodation provided, which led to an escalation to the Ombudsman.

3.2 The Ombudsman found fault causing injustice due to the delays in dealing with the complainant's homelessness application, failure to issue a personalised housing plan (PHPs) and failure to provide the resident with temporary accommodation pending the outcome of the homelessness investigation when the Council should have done so.

3.3 Under the provisions of the Homelessness Reduction Act 2017, if a local authority is satisfied that a resident is homeless and eligible for assistance under the provisions of the Act, they are under duty to assist an applicant under either the Prevention Duty or the Relief Duty. When assessing an applicant within either the Prevention or Relief Duty, the local authority is required to issue a PHP, which sets out the reasonable steps the applicant is to take and the reasonable steps the local authority is to take in order to prevent or relieve homelessness.

3.4 The Council has had an increase in homelessness applications over the last 5 years, which has led to an increased demand for homelessness services. This along with some complex I.T. issues, contributed to a delay in PHPs being recorded as issued in some cases, which eventually caused a backlog. The I.T. issue has been resolved and the data is being cleansed by the Housing Needs Service.

3.5 The Ombudsman recommended that within three months of the date of his report the Council should:

- send a written apology to the complainant to acknowledge and apologise for the poor handling of his case;
- make a symbolic payment of £300 to the complainant to acknowledge the distress and uncertainty caused to him; and
- if it has not already done so, review the homelessness duty owed to the complainant.

3.6 The Ombudsman also recommended that the Council should take the following action to improve the service for homeless applicants;

- Train officers to ensure that they are aware of the definition of 'personally connected' and meaning of 'relatives' as set out in section 63 of the Family Law Act 1996.
- Send written apologies to applicants affected by the delays in issuing PHPs.
- Draw up an action plan, with clear timescales, for reducing the number of applicants waiting for a PHP and ensuring PHPs are issued without delay. The Council should provide a quarterly report to the relevant committee to ensure democratic oversight.

4. LEGAL REQUIREMENTS: FINDING OF MALADMINISTRATION

4.1 Under section 5A of the Local Government and Housing Act 1989 the Council's Monitoring Officer is required to report to the Leadership Team any finding by the Local Government and Social Care Ombudsman of maladministration by the Council.

4.2 In preparing the report the Monitoring Officer is required to consult the Chief Executive and the Executive Director of Resources. As soon as practicable after the report has been prepared, the Monitoring Officer must arrange for a copy of the report to be sent to each member of the Council.

4.3 It is the duty of the Leadership Team to consider the Monitoring Officer's report at a meeting held not more than 21 days after copies of the report are first sent to the Leadership Team. Having considered the report the Leadership Team must prepare a report which specifies the action the Leadership Team has taken or proposes to take in response to the report.

4.4 Section 30 of the Local Government Act 1974 requires the Council to place notices in local newspapers within two weeks of the Ombudsman publishing his report on 14 March 2024. Notice was published in the local press on 28 March 2024.

5. IMPLEMENTATION OF THE RECOMMENDATIONS

5.1 The Director of Housing Needs has accepted the Ombudsman decision and considered the Ombudsman's decision very carefully. Having obtained legal advice on effective actions, the Housing Needs service has commenced the implementation of the remedies.

5.2 The Director has written to the complainant to apologise for the Council's handling of his case and paid the compensation to the resident.

5.3 The service reviewed the complainant's homelessness application and subsequently accepted a main housing duty. The Council also provided him

with temporary accommodation pending the outcome of an offer of permanent accommodation in discharge of the duty.

- 5.4 In accordance with the Ombudsman's recommendations, Housing Needs staff have been trained on the provisions of the Family Law Act, and Domestic Abuse Act to develop skills and knowledge across all members of the department. The training was specifically focused on conducting homelessness applications in relation to applicants fleeing domestic abuse. Staff will be provided with regular updates and training on changes to family and domestic law provisions. New staff joining the service will be provided with this training as part of their induction programme.
- 5.5 The service has devised a detailed implementation plan to reduce the backlog of applicants awaiting a PHP. All cases are being reviewed to determine, which ones have not been issued with PHPs. All cases will be issued with PHPs and apologies will be sent to all cases impacted by the end of July 2024. A summary of this plan is provided at Appendix A: *Housing Needs backlog PHP reduction action plan*.
- 5.6 More broadly, the Housing Needs Service has established a senior officer Complaints Panel, which meets each week to consider complex cases. It also has a Residents Reference Group for households in temporary accommodation and the report will be discussed at the Group's next meeting.
- 5.7 Further, the Housing Needs Service has also recently circulated its latest customer survey for all households in temporary accommodation to obtain feedback about the quality of service delivered and recommendations for service improvement.
- 5.8 The Ombudsman has stated that it is satisfied with the action the Council proposes to take. If the Council does not carry out the recommendations, either in whole or in part, the Ombudsman is required to make a further report setting out the facts and make recommendations. The Monitoring Officer would again be obliged to report to the Leadership Team and the Leadership Team would need to consider the Ombudsman's further report. If there is still no satisfactory response, the Ombudsman may require the Council to arrange for a statement outlining the position to be published in a local newspaper. The further report would also have to be considered by the Full Council.

6. FURTHER INFORMATION

- 6.1 Two appendices are attached to this report.

Appendix A (attached to this report): *Housing Needs backlog PHP reduction action plan*

Appendix B (accompanying this report): *Report by the Local Government and Social Care Ombudsman: Investigation into a complaint about Royal Borough of Kensington & Chelsea, 15 February 2024*

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Background Papers used in the preparation of this report:

None

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Appendix A

Housing Needs backlog PHP reduction action plan

Activity	Lead	Date to be completed
Domestic Abuse Awareness Training	Housing Needs	31/03/24
Homelessness Law and Domestic Abuse Act Introductory Training	Housing Needs	31/03/24
Casework Skills for Prevention & Advice Services	Housing Needs	31/03/24
Create appointment system to see all backlog cases	Housing Solutions	15/04/24
Homelessness Law and Domestic Abuse Act Advanced Training	Housing Needs	30/04/24
Data Cleanse to determine outstanding PHPs	Service Development	30/04/24
Performance target to be introduced for the completion of PHPS	Service Development	01/05/24
Allocation of cases without PHPs	Housing Solutions	07/05/24