

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

**Investigation into a complaint about
Royal Borough of Kensington & Chelsea
(reference number: 23 002 077)**

15 February 2024

The Ombudsman's role

For almost 50 years we have independently and impartially investigated complaints about councils and other organisations in our jurisdiction. If we decide to investigate, we look at whether organisations have made decisions the right way. Where we find fault has caused injustice, we can recommend actions to put things right, which are proportionate, appropriate and reasonable based on all the facts of the complaint. We can also identify service improvements so similar problems don't happen again. Our service is free.

We cannot force organisations to follow our recommendations, but they almost always do. Some of the things we might ask an organisation to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

We publish public interest reports to raise awareness of significant issues, encourage scrutiny of local services and hold organisations to account.

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

Mr X The complainant

Report summary

Housing – domestic abuse, homelessness

Mr X complained that the Council delayed in dealing with his homelessness application and failed to offer interim accommodation when he was fleeing domestic abuse. Mr X says he has been street homeless and without safe accommodation for longer than necessary.

Finding

Fault found causing injustice and recommendations made.

Recommendations

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)

We recommend within three months of the date of this report the Council take the following actions.

- Send a written apology to Mr X to acknowledge the uncertainty and distress caused to him by the delay in issuing its decision to accept the prevention duty and personalised housing plan (PHP) and the failure to recognise he was personally connected to the alleged perpetrator of abuse. We publish [guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively to remedy injustice. The organisation should consider this guidance when making the apology we have recommended in our findings.
- Make a symbolic payment of £300 to Mr X to acknowledge the distress and uncertainty caused to him.
- By training or other means, ensure officers are aware of the definition of 'personally connected' and meaning of 'relatives' as set out in section 63 of the Family Law Act 1996.
- If it has not already done so, review the homelessness duty owed to Mr X and notify him of the decision and his rights to seek a review of that decision.
- Send written apologies to the applicants affected by the delays in issuing PHPs. In making the apologies the Council should have regard to our [guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively.
- 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.

The complaint

1. Mr X complained that the Council delayed in dealing with his homelessness application and failed to offer interim accommodation when he was fleeing domestic abuse. Mr X says he has been street homeless and without safe accommodation for longer than necessary.

Legal and administrative background

The Ombudsman's role and powers

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 may investigate matters coming to our attention during an investigation, if we consider that a member of the public who has not complained may have suffered an injustice as a result. (Local Government Act 1974, section 26D and 34E, as amended)

Relevant law and guidance

Homelessness

4. Part 7 of the Housing Act 1996 and the Homelessness Code of Guidance for Local Authorities set out councils' powers and duties to people who are homeless or threatened with homelessness.
5. If someone contacts a council seeking accommodation or help to obtain accommodation and gives 'reason to believe' they 'may be' homeless or threatened with homelessness within 56 days, the council has a duty to make inquiries into what, if any, further duty it owes them. The threshold for triggering the duty to make inquiries is low. The person does not have to complete a specific form or approach a particular department of the council. (Housing Act 1996, section 184 and Homelessness Code of Guidance paragraphs 6.2 and 18.5)
6. Councils must complete an assessment if they are satisfied an applicant is homeless or threatened with homelessness. The Code of Guidance says, rather than advise the applicant to return when homelessness is more imminent, the housing authority may wish to accept a prevention duty and begin to take reasonable steps to prevent homelessness. Councils must notify the applicant of the assessment. Councils should work with applicants to identify practical and reasonable steps for the council and the applicant to take to help the applicant keep or secure suitable accommodation. These steps should be tailored to the household, and follow from the findings of the assessment, and must be provided to the applicant in writing as their personalised housing plan. (Housing Act 1996, section 189A and Homelessness Code of Guidance paragraphs 11.6 and 11.18)
7. If councils are satisfied applicants are threatened with homelessness and eligible for assistance, they must help the applicants to secure that accommodation so it does not stop being available for their occupation. In deciding what steps they are to take, councils must have regard to their assessments of the applicants' cases. This is the prevention duty. (Housing Act 1996, section 195)

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8. Councils must take reasonable steps to help to secure suitable accommodation for any eligible homeless person. When a council decides this duty has come to an end, it must notify the applicant in writing. This is the relief duty. (Housing Act 1996, section 189B)
 9. A council must secure interim accommodation for an applicant and their household if it has reason to believe the applicant may be homeless, eligible for assistance and have a priority need. Applicants in priority need include victims of domestic abuse. (Housing Act 1996, section 188)
 10. The Domestic Abuse Act 2021 created a statutory definition of domestic abuse. This provides the behaviour of a person towards another person is domestic abuse if both people are aged 16 and over, are 'personally connected' to each other and the behaviour is abusive. Behaviour is abusive if it consists of any of the following:
 - physical or sexual abuse;
 - violent and threatening behaviour;
 - controlling or coercive behaviour;
 - economic abuse;
 - psychological, emotional or other abuse. (Section 1, Domestic Abuse Act 2021)
 11. The definition of 'personally connected' includes relatives and relatives has the meaning given by section 63 of the Family Law Act 1996. This provides that a relative in relation to a person includes a person who is married to or is the civil partner of the person's sibling. (Part 1, section 2, Domestic Abuse Act 2021 and section 63 Family Law Act 1996)

What we have and have not investigated

12. We have not investigated the Council's decision to accept the prevention duty instead of the relief duty. Mr X had the right to request a review of the Council's decision and then appeal to the county court. The Council informed Mr X of his right to seek a review in its letter notifying him that it had accepted the prevention duty. We also notified Mr X of his right to request a review and this was within the timescale for seeking a review. We therefore consider it is reasonable to expect Mr X to have sought a review of the Council's decision and appealed to the county court if he disagreed with the outcome of the review.

How we considered this complaint

13. We produced this report after examining relevant documents.
14. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

What happened

15. Mr X lived with his sibling and their spouse. In early 2023, Mr X made a homelessness application to the Council. The Council carried out a homelessness assessment which recorded Mr X said he had to leave his sibling's property due

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- to fights with the spouse so he was staying with a friend. The homelessness assessment also noted Mr X said he was not at risk of domestic abuse. The Council referred Mr X to its team which helped applicants in finding private rented accommodation.
16. Some weeks later, Mr X made a complaint to the Council about a number of matters including that it had not notified him it had accepted the relief duty, had not provided temporary accommodation and had not provided sufficient support when he was fleeing domestic abuse.
 17. The Council considered the complaint at stage one of its two stage complaints procedure. The Council said it:
 - did not offer interim accommodation as Mr X was staying with his friend;
 - offered to refer Mr X to an Independent Domestic Violence Advisor but he declined; and
 - had referred him to the Council's team which helped in finding private rented accommodation.
 18. The Council acknowledged it had delayed in notifying Mr X that it had accepted the relief duty and in issuing his personalised housing plan (PHP). The Council apologised for this delay. The Council also said an officer would contact Mr X within a week to progress the PHP.
 19. Two weeks later Mr X requested his complaint be escalated to stage two of the Council's complaints procedure. He said the Council failed to process his homelessness application. This included failing to accept the relief duty, failing to issue the PHP and failing to provide interim accommodation when fleeing domestic abuse. Mr X also said he was sleeping rough.
 20. The Council referred Mr X for a private rented property in another borough for long term housing. Mr X declined the offer as he considered it was too far from his work.
 21. An officer met with Mr X to discuss his circumstances and PHP. The Council's records note that the officer advised Mr X that the abuse was not from a blood relative. In response to our enquiries, the Council said it did not consider the person allegedly perpetrating the abuse to be 'personally connected' to Mr X.
 22. The Council notified Mr X that it had accepted the prevention duty and notified him of his right to seek a review of this decision. The Council also sent a copy of his homelessness assessment and PHP. The assessment noted Mr X was staying with friends.
 23. The PHP set out the steps the Council and Mr X should take to prevent Mr X's homelessness. The Council's steps included a referral to the Council's team to find private rented accommodation and to help with a deposit if Mr X found private rented accommodation.
 24. The Council responded to Mr X's stage two complaint. It said it:
 - did not have a duty to provide temporary accommodation to Mr X as it considered it owed the prevention duty as Mr X was staying with friends; and
 - delayed in notifying Mr X that it had accepted the prevention duty and in issuing the PHP. The Council apologised for the delay.
 25. The Council has acknowledged that it is experiencing delays in dealing with homelessness applications. It had a backlog of over 500 cases requiring a PHP.

The Council said this was due to an increase in homelessness and general housing enquiries which is beyond its control.

26. To deal with the delays, the Council has recruited a team to progress the backlog cases. As a result, it has seen a decrease in the number of cases outstanding. It has also commissioned training on homelessness duties, including the issuing of PHPs.
27. The Council has also taken action to improve how it deals with applicants who are fleeing domestic abuse. Officers are undertaking training to ensure they understand how best to support domestic abuse victims. The Council is applying for Domestic Abuse Housing Alliance accreditation which scrutinizes the Council's processes and practices in relation to domestic abuse. It has also published a domestic abuse policy.

Conclusions

28. The Council did not offer interim accommodation to Mr X when he first made his homelessness application. This was because it did not have reason to believe he was homeless as he was staying with a friend. We consider there is fault in how the Council reached this decision. Mr X would be legally homeless if he could only stay with his friend or other friends for a short period of time. There is no evidence to show that the Council checked with Mr X or his friend how long he could stay with his friend and whether this was settled accommodation. But we do not consider the Council would have provided interim accommodation even if Mr X's friend could not accommodate him for more than a short period of time. Mr X did not disclose domestic abuse when he made his homelessness application so the Council did not have reason to believe he was in priority need.
29. The Council has acknowledged it delayed in notifying Mr X of its decision to accept the prevention duty and in issuing the PHP. Councils are required to take reasonable and sometimes urgent steps to prevent homelessness. The Council took approximately 11 weeks from when Mr X made his application to issue the prevention duty decision and PHP. This is an excessive amount of time. The Council had also undertaken to issue the duty letter and PHP within a week of its response to Mr X's stage one complaint but failed to do so. The Council has said the delays are caused by an increased demand on its service and beyond its control. But the Council has some control in how it uses its resources to respond to the increased demand. The Council did not provide the service it should have done to Mr X which is fault. This caused uncertainty and distress to Mr X.
30. We do not consider the delay in issuing the PHP caused Mr X to miss support in preventing his homelessness. The Council referred Mr X to its team which helps in finding private rented accommodation before it issued the PHP so it had undertaken some of the steps set out in the PHP.
31. The Council wrongly considered Mr X was not 'personally connected' to the alleged perpetrator of domestic abuse when it discussed the PHP with him. The legal definition of a 'relative' includes a sibling's spouse so Mr X was personally connected to the alleged perpetrator. We cannot conclude the Council should have offered interim accommodation as there was no reason for the Council to believe he was in priority need when he first presented as homeless. As explained at paragraph 12, we have not investigated the Council's decision to accept the prevention duty instead of the relief duty as Mr X had the right to seek a review of this decision and appeal to the county court. But the failure to recognise Mr X was personally connected to the alleged perpetrator was fault and will have caused some distress to him which the Council should remedy.

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32. The Council has a significant backlog of cases requiring a PHP. This is unacceptable as PHPs play a crucial role in preventing or alleviating an applicant's homelessness. Delays in providing PHPs means a delay in providing guidance and support to applicants about what the Council and they should do to address their housing situation. That is a significant injustice to them.
33. We acknowledge and welcome the action the Council is taking to improve how it deals with applicants fleeing domestic abuse. We also welcome the action the Council is taking to address the backlog in issuing PHPs. But these processes should not be allowed to drift and there should be democratic oversight of the progress to ensure it is sustained.

Recommendations

34. 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)
35. In addition to the requirements set out above, the Council should take the following actions within three months of the date of this report.
- Send a written apology to Mr X to acknowledge the uncertainty and distress caused to him by the delay in issuing its decision to accept the prevention duty and PHP and the failure to recognise he was personally connected to the alleged perpetrator of abuse. We publish [guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively to remedy injustice. The organisation should consider this guidance when making the apology we have recommended in our findings.
 - Make a symbolic payment of £300 to Mr X to acknowledge the distress and uncertainty caused to him.
 - By training or other means, ensure officers are aware of the definition of 'personally connected' and meaning of 'relatives' as set out in section 63 of the Family Law Act 1996.
 - If it has not already done so, review the homelessness duty owed to Mr X and notify him of the decision and his rights to seek a review of that decision.
 - Send written apologies to the applicants affected by the delays in issuing PHPs. In making the apologies the Council should have regard to our [guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively.
 - 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.

Decision

36. We have completed our investigation into this complaint. There was fault by the Council which caused injustice to Mr X and others. The Council should take the action identified at paragraph 35 to remedy that injustice.