
LGSCO Report of Maladministration causing injustice (Housing) – Ms X

Decision date: 21st May 2025

Decision of Deputy City Mayor (Housing lead):
Cllr Elly Cutkelvin

Report of the Monitoring Officer: Kamal Adatia

Useful information

- Ward(s) affected: N/A
- Report author: Kamal Adatia
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- Report version number: 1

1. Summary:

- 1.1 Ms X complained to the Local Government and Social Care Ombudsman (LGSCO) that the Council failed to provide sufficient support with her homelessness and failed to provide suitable accommodation for her and her children. She claimed that as a result, Ms X and her family had been living in unsuitable accommodation for longer than necessary which caused significant distress. Ms X also considered that the stress of living in unsuitable accommodation had significantly affected her mental and physical health.
- 1.2 By report dated 7th October 2024 and formally published on 14th November 2024 the LGSCO, pursuant to her powers under Part III Local Government Act 1974, found that Leicester City Council (LCC) had been guilty of maladministration causing injustice to Ms X. The full report can be found online here - [23 015 268 - Local Government and Social Care Ombudsman](#) and is attached as Appendix 1. The Council had, prior to this date, confirmed that we were unwilling to comply with two of the LGSCO's recommendations, all of which are set out at paragraph 49 of the report.
- 1.3 That publication by the LGSCO made seven recommendations in total and was accompanied by various requirements as to matters such as publication (by the Council) of press notices, but also consideration of that report by the Council's Cabinet. The scope of this duty is enshrined in section 31(2) Local Government Act 1974, and entails "consideration" of the report and "notification" back to the LGSCO.
- 1.4 There is a separate duty upon the Monitoring Officer pursuant to section 5A Local Government & Housing Act 1989, in cases of maladministration causing injustice, to report to the Council's Cabinet and all Elected Members about such maladministration.
- 1.5 This report purports to fulfil both the 1974 Act duty (the Cabinet's duty of consideration and notification) and the 1989 Act duty (the Monitoring Officer's duty of reporting).
- 1.6 A summary of the key facts of Ms X's case is found at paragraphs 21 to 32 of the LGSCO report.

2. Recommendations:

- 2.1 That the Council's Cabinet considers the report of the LGSCO dated 7th October 2024 finding maladministration causing injustice to Ms X and her family.
- 2.2 That the Assistant Mayor for Housing confirm whether the recommendations of the LGSCO will be complied with in full, and if not, to provide reasons for declining to comply with any recommendations.

3. LGSCO's conclusions:

- 3.1 **Private Sector Housing** – not proportionate for the LGSCO to investigate further the complaint about whether the Council failed to provide proper assistance to secure a private rented property, for the reasons given in paragraph 34 of the LGSCO report.
- 3.2 **Initial decision to place Ms X in refuge accommodation** – no fault found by the LGSCO, for the reasons given in paragraph 35 of the LGSCO report
- 3.3 **Council's consideration of the suitability of refuge accommodation** – fault found by the LGSCO. The Council should not have placed the onus on Ms X to contact the refuge to see if it had alternative accommodation. The Council should also have offered interim accommodation to Ms X when the refuge informed it that it could not provide alternative accommodation for Ms X. The Council did not offer alternative accommodation to Ms X until November 2023. This delay was fault. It is acknowledged that the customer may not have accepted B&B accommodation if this was offered but the Council's delay in responding to concerns and arranging alternative accommodation caused Ms X distress.
- 3.4 **Delay in accepting the main housing duty** - fault found by the LGSCO. The Council accepted the relief duty in January 2023. It should have made a decision on whether it owed the main housing duty 57 days later. It did not accept the main housing duty until August 2023. The delay of four months accepting the main housing duty was fault. The Council failed to notify Ms X of its decision to end the relief duty and accept the main housing duty. This was fault which will have caused Ms X some uncertainty about the duty accepted by the Council.
- 3.5 **Suitability of accommodation** – fault found by the LGSCO. The Council has acknowledged it failed to consider if the accommodation provided by the refuge was suitable as temporary accommodation when it accepted the main housing duty. This was fault. The Council's failure to notify that it had accepted the main housing duty also meant it failed to notify Ms X of her statutory right to seek a review of the suitability of the temporary accommodation. The Council wrongly notified that B&B was interim

accommodation. This was incorrect as the Council had accepted the main housing duty so the B&B accommodation was temporary accommodation. This fault meant the Council failed, once again, to notify statutory right to seek a review of the suitability of the accommodation.

3.6 Failure to move Ms X to self-contained accommodation after six weeks in B&B accommodation. – fault found by the LGSCO. The family lived in B&B accommodation for 19 weeks. The law states councils can accommodate households with children in B&B only as a last resort, and for no longer than 6 weeks. The LGSCO accepts Council's evidence that B&B accommodation was the only accommodation available at the time. However, the family remained in B&B for 13 weeks longer than they should have, in unsuitable accommodation, due to size and lack of cooking facilities.

4. LGSCO's recommendations and Council response:

There are seven recommendations made by the LGSCO:

4.1 Send a written apology to the customer for the distress caused by the faults identified

Council response – agreed. Action completed on 14/10/2024.

4.2 Make a symbolic payment of £500 to acknowledge the distress caused by the failure to respond to the concerns about the suitability of the refuge accommodation, Failure to notify of the decision to accept the main housing duty and the missed opportunities to seek a review of the suitability of the accommodation.

Council response – agreed. Action completed on 20/11/2024.

4.3 Make a symbolic payment of £1,300 to acknowledge the distress caused to the family by living in unsuitable Bed and Breakfast accommodation for 13 weeks longer than they should have done.

Council response – action not agreed. See section 5

4.4 Make a symbolic payment of £150 per month for every month they remained in unsuitable temporary accommodation.

Council response – action not agreed. See section 5

4.5 Draw up an action plan with clear timescales for reducing the number of families in Bed and Breakfast accommodation for over six weeks and moving them into suitable temporary accommodation. The Council should provide a

quarterly report to the relevant committee to ensure democratic oversight. This is to ensure the Council has a robust plan to reduce the number of families in Bed and Breakfast accommodation over six weeks

Council response – action agreed. A copy of the Bed & Breakfast Elimination Plan was shared with the LGSCO on 03/01/2025. On 06/01/2025 LGSCO confirmed this action was completed.

- 4.6 By training, or other means, remind officers that they must consider whether interim accommodation is suitable temporary accommodation when accepting the main housing duty and be mindful that refuge accommodation may not be suitable temporary accommodation.

Council response – action agreed. The evidence of formal Homelessness training that was delivered to the teams was provided to LGSCO on 3/01/2025. On 6/1/2025 LGSCO confirmed that they were satisfied that this recommended action was completed.

- 4.7 Review the template letters used by the Council to ensure it notifies customers of their right to seek a review of the suitability of their temporary accommodation when the Council accepts the main housing duty or moves them to alternative temporary accommodation

Council response – action agreed. The specific letters were reviewed with copies provided as evidence to LGSCO on 3/01/2025. On 6/1/2025 LGSCO confirmed that they were satisfied that this recommended action was completed.

5. Council Position & Challenging

- 5.1 The Housing Division considered a draft of the LGSCO's report in August 2024 which also contained recommendations 4.3 and 4.4 above. At that time the following reasoning was provided by the Council to the LGSCO to explain why those recommendations were not agreed:

- *We understand the basis on which you have made a finding that the 2003 Regulations render accommodation beyond 6 weeks to be “unsuitable”, within the legislative context, but we respectfully disagree with your conclusion as to culpability and the consequent award of compensation for this. Indeed, on the issue of B&B accommodation we have invested over £350m in new Affordable Housing over the last 6 years delivering over 1200 more homes to tackle this issue. The Council has also approved £45m to deliver 225 new Temporary family and single accommodation and a further 125 leases and invested over £1.2m in additional Homelessness staff to help and support those in Temporary Accommodation, B&B and facing Homelessness with ongoing work to deliver 1500 more new affordable homes to tackle this matter.*

- *The Council as a whole body takes extremely seriously the plight of families who are homeless, particularly in the current climate (meaning that we not only understand the legal duty, but we have accepted the moral responsibility too, hence the unprecedented actions set out above)*
- *However, the issue that is the subject of recommendations 3 and 4 (“The failure to move Ms X and her children to self-contained accommodation after six weeks was therefore service failure and fault. As a result, Ms X and her children lived in unsuitable B and B accommodation for 13 weeks longer than they should have...”) are not of LCC’s making. They are a product of international forces well beyond one LA’s control, together with policy made by multiple Government agencies including the Home Office and the MHCLG.*
- *We acknowledge that the LGO’s remedies guidance endorses the recommendations about compensatory payment in these situations Guidance on remedies - Local Government and Social Care Ombudsman but to seek to penalise a LA for a national and international crisis is grossly unfair to the LA and the taxpayers of Leicester. The Regulations regarding “unsuitability” were made by Parliament in 2003, over 20 years ago. The geopolitical context has changed unrecognisably since then.*
- *It is impossible to see that the LGO have not set a clear precedent here that you will be bound to follow in other complaints, given that the finding is rooted in a literal interpretation of the 2003 Regulations leading to fault. There would be nothing to preclude any other complainant in the same situation from seeking to be compensated in a similar manner, and we calculate this exposure to be £220k (and unlimited monthly payments) for the Authority. Nationally noting that there are 100,000 families in B&Bs this could equate to £130m plus monthly payments which can only mean more local authorities pushed closer to the prospect of an unbalanced General Fund and prospect of serving a S114 notice leading to significant and detrimental loss of local services for local people.*
- *The principle of awarding a remedy is predicated upon the public body who is at fault being able to put-right that error. This is simply not the case here. There will be no salutary effect from this compensatory exposure, because we (like just about every other LA in the country) have no power to immediately create extra housing that would avert the need to keep families in B&B for more than six weeks. We are, in effect, hostage to forces beyond our control.*
- *However, we are not by any means passive about this scenario. We are spending tens of millions of pounds to fix the situation, and exposing us to paying hundreds of thousands of pounds of compensation will only serve to significantly set-back our plans to strategically fix this wider problem.*
- *Our respectful submission to you is that we are doing the very best we can with the unprecedented overdemand for housing and the systemic shortage of stock, therefore to penalise us for this element (which has its provenance in a global geopolitical forces as well as national policy) is grossly unfair and damaging to the public purse.*

5.2 In making this submission the Housing Division were not suggesting that the extended stay in B&B accommodation was “suitable”. Technically, we can’t argue that the 13

weeks extra in B&B was “suitable”. The Homelessness (Suitability of Accommodation) (England) Order 2003 makes it automatically *unsuitable* (regardless of its quality).

5.3 The LGSCO made the following point in reply:

“The Council has a significant number of families who have lived in B and B accommodation for over six weeks. This means a large number of families are living in unsuitable accommodation, often without access to proper cooking facilities, for longer than they should. This is a significant injustice to them. We welcome the actions being taken by the Council to increase its supply of temporary accommodation so it can move families from B and B accommodation. But, in tackling the significant numbers of families in B and B accommodation, the Council must be mindful of its duties to provide suitable interim and temporary accommodation. It is therefore at risk of exacerbating the injustice to these families if it transfers them to accommodation which still does not meet their needs”.

5.4 The Ombudsman has extensive experience in investigating homelessness complaints and provide guidance on remedial actions and preventing future injustice. Within this guidance they have clearly set out a specific chapter on Housing which includes their approach to the corrective actions following a fault by the Council in carrying out their duties to the homeless. Before challenging any decision, we must note their guidance regarding the “unsuitable B&B placements” in which they have clearly stated the following:

“The most serious injustice is often experienced by households who stay long-term in unsuitable B&B accommodation, often far in excess of the six-week legal limit for families with children or a pregnant household member”.

“The law says this type of accommodation is never suitable for young people aged 16 or 17 and families with children or a pregnant household member. The Suitability of Accommodation Order 2003 says it can only be used for a maximum of six weeks for families when no other accommodation is available. We will assess financial redress in these cases by reference to the number of weeks a family has stayed in B&B beyond the point where they should have been moved. This may be earlier than the maximum six weeks. We are likely to recommend a weekly payment in the range of £100 to £200. This payment is additional to reimbursement of any specific quantifiable costs that the homeless household incurred”.

5.5 Since this LGSCO report the Council has continued its strategy of acquiring accommodation to meet homelessness need. We are planning the delivery of 1,650 new affordable homes for the city by 2027 plus an additional £1m to increase our Private Rented Sector accommodation opportunities to double the number of outcomes for homeless households from 240 to 500. We have delivered an extra 125 leases offering our homeless households Assured Shorthold Tenancies. We have fully committed the £45m to provide better quality self-contained temporary accommodation. Overall, there

are 275 new LCC owned self-contained Temporary Accommodation units (134 single/ 141 family) going to be brought online by Summer 25, which should help us to significantly reduce down the use of B&B accommodation.

5.6 Subsequent to the formal receipt of the completed report the Council issued press notices as required and is storing hard copies of the report at our main offices for anybody requesting a paper version of the report. The Report attracted publicity in some national press, for example -

- [Leicester City Council failed to help homeless family - watchdog - BBC News](#)
- [City council refuses to fulfil Ombudsman remedies calling for payment to domestic abuse victim](#)

5.7 As noted in section 4 above, the majority of the LGSCO's recommendations have been complied with. The LGSCO has written to the Council confirming their satisfaction with our compliance with all but the two recommendations set out 4.3 and 4.4 above. This report seeks formal consideration of those two outstanding recommendations.

5.8 Whilst this matter was considered by the Council's cabinet at a City Mayor Briefing (CMB) meeting which took place on 5th December 2024 it is right to say that the LGSCO has not received any formal response by way of a "Decision" on the Council's stance regarding 4.3 and 4.4, other than correspondence from officers. The LGSCO thus has insufficient clarity as to what documentation was considered at CMB, and where ownership of the Council's stance on the outstanding recommendations lies. Equally, as there is a duty in these circumstances upon the Monitoring Officer to bring the proposed non-compliance to the attention of Elected Members, the advice of the Monitoring Officer is that the issues should be set out in a formal Decision Report and shared with all Members (and with the LGSCO).

5.9 It should be noted that if the decision of the Deputy City Mayor is that the Council should continue to resist making the payments set out at 4.3 and 4.4 above the LGSCO does not have the power to impose or enforce compliance, however she does have the power to take further action by way of publishing a further report highlighting the Council's refusal to fully comply. This will require publication in the local press and further consideration by Members, this time at Full Council. It is extremely rare for the LGSCO to have to issue a further report.

5.10 For completeness it should be noted that Ms X moved to a Housing Association property in mid-October 2024.

6. Financial implications

For the individual case which was the focus of the LGSCO report, the financial implications are clear in that accepting the remaining 2 recommendations would cost the Council £1,750 as follows:

- £1,300 for Mrs X having lived in unsuitable B&B accommodation for longer than a 6-week period, and;
- £150 for each month she remained in unsuitable temporary accommodation (a total of £450).

More widely, if the recommendations of the LGSCO which were not accepted by LCC were to be applied to all other cases in which families have, out of necessity, been living in B&B accommodation for more than 6 weeks over the last 12 months, then it is estimated that this could cost the Council in the region of £500k.

Stuart McAvoy – Head of Finance
29th April 2025

7. Legal implications

The powers of the LGSCO derive from the Local Government Act 1974 and break down as follows:

- Section 31(2) of the 1974 Act - In relation to the report dated 7th October 2024 the LGSCO is entitled to be satisfied as to certain actions that an appropriate Elected Member body of the Authority has taken in respect thereof. This is normally to be done within three months of receipt of the report, or within such timescale as is mutually agreed. In this case the LGSCO has indicated that the deadline should be 31st May 2025.
- Sections 31(2A), (2D) set out the power of the LGSCO to issue a further report if dissatisfied with either the procedural or substantive response from the Council under section 31(2) above and sets out further requirements as to publicity thereof. Section 31A makes provision for any further adverse report to be considered by Full Council.

The powers and duties of the Monitoring Officer derive from the Local Government & Housing Act 1989 and break down as follows:

- Sections 5A(3) and (5) to (9) confirm that where a report finding maladministration has been made by the LGSCO the reporting duty of the Monitoring Officer is triggered, and the LGSCO's Manual for Councils sets out how the LGSCO interprets this duty which, in essence, varies in specificity dependent upon the Council's willingness to remedy the maladministration that has been found. In this case, as

recommendations remain outstanding, a dedicated report is to be written by the Monitoring Officer, followed by the requirement for the Executive to consider the Monitoring Officer's report and formally reply. Lastly, that report and reply should be shared with all Members of the Council.

Kamal Adatia, Monitoring Officer
12th May 2025

8. Climate emergency implications

There are no climate emergency implications arising from the recommendations in this report.

Duncan Bell, Change Manager (Climate Emergency). Ext. 37 2249
24th April 2025.

9. Equality Implications

Local authorities have a duty to comply with both homelessness legislation and the Equality Act when delivering services. This means they must not discriminate in housing provision and must consider the specific needs of individuals, including their protected characteristics, when their situation, determining eligibility for homelessness support, and deciding on the type and suitability of accommodation offered.

Under the Equality Act 2010, public authorities have statutory duties, including the Public Sector Equality Duty (PSED) which means that, in carrying out their functions, decision makers must pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

The council must ensure our policies and practices are not discriminatory and that they are actively advancing equality of opportunity for those facing homelessness, that they are explicitly inclusive and consider the diverse needs of individuals with all protected characteristics. It is important to actively monitor the impact of homelessness services on different groups and make any adjustments as needed. If the LGSCO recommendations are not implemented this may lead to continuing hardship or inconvenience that led to the complaint in the first instance.

Sukhi Biring, Equalities Officer
24 April 2025