

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

**Investigation into a complaint about
Leicester City Council
(reference number: 23 015 268)**

07 October 2024

The Ombudsman's role

We independently and impartially investigate 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

Ms X The complainant

Report summary

Subject: Housing – Homelessness, Domestic Abuse

Ms X complains that the Council failed to provide sufficient support with her homelessness and failed to provide suitable accommodation for her and her children. As a result, Ms X and her family have been living in unsuitable accommodation for longer than necessary which has caused significant distress. Ms X also considers the stress of living in unsuitable accommodation has significantly affected her mental and physical health.

Finding

Fault 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)

In addition, the Council should take the following actions within three months of this report.

- Send a written apology to Ms X for distress caused by the faults identified above. 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 in making the apology.
- Make a symbolic payment of £500 for the distress caused to Ms X by failing to respond to her concerns about the suitability of her refuge accommodation, failing to notify her of the decision to accept the main housing duty and the missed opportunities to seek a review of the suitability of her accommodation.
- Make a symbolic payment of £1,300 for the distress caused to Ms X and her children by living in unsuitable Bed and Breakfast accommodation for 13 weeks longer than they should have done.
- Make a symbolic payment of £150 per month to Ms X for every month she remains in unsuitable temporary accommodation.
- 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 on progress 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.
- 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.
- Review its template letters to ensure it notifies applicants 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.

The Council has agreed to comply with some of the recommendations. It has not agreed to make the symbolic payment of £1,300 or pay Ms X £150 for each month she remains in unsuitable temporary accommodation.

The complaint

1. Ms X complains that the Council failed to provide sufficient support with her homelessness and failed to provide suitable accommodation for her and her children. As a result, Ms X and her family have been living in unsuitable accommodation for longer than necessary which has caused significant distress. Ms X also considers the stress of living in unsuitable accommodation has significantly affected her mental and physical health.

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. Service failure can happen when an organisation fails to provide a service as it should have done because of circumstances outside its control. We do not need to show any blame, intent, flawed policy or process, or bad faith by an organisation to say service failure (fault) has occurred. (Local Government Act 1974, sections 26(1), as amended)
4. When considering complaints we make findings based on the balance of probabilities. This means that we look at the available relevant evidence and decide what was more likely to have happened.
5. 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, sections 26D and 34E, as amended)

Relevant law and guidance

6. 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.
7. If a council is satisfied an applicant is homeless, eligible for assistance, and has a priority need the council has a duty to secure that accommodation is available for their occupation (unless it refers the application to another housing authority under section 198). Applicants in priority need include victims of domestic abuse.
8. After completing inquiries, the council must give the applicant a decision in writing. If it is an adverse decision, the letter must fully explain the reasons. All letters must include information about the right to request a review and the timescale for doing so. (Housing Act 1996, section 184, Homelessness Code of Guidance 18.30)
9. There are two types of accommodation councils provide to certain homeless applicants: interim accommodation and temporary accommodation.
10. A council must secure accommodation for applicants and their household if it has reason to believe they may be homeless, eligible for assistance and have a

priority need. This is called interim accommodation. (Housing Act 1996, section 188)

11. If a council is satisfied an applicant is unintentionally homeless, eligible for assistance, and has a priority need, the council has a duty to secure that accommodation is available for their occupation. This is called the main housing duty. The accommodation a council provides until it can end this duty is called temporary accommodation. (Housing Act 1996, section 193)
12. The law says councils must ensure all accommodation provided to homeless applicants is suitable for the needs of the applicant and members of their household. This duty applies to interim and temporary accommodation. (Housing Act 1996, section 206 and Homelessness Code of Guidance 17.2)
13. Interim and temporary accommodation can be the same physical property. What changes is the legal duty under which a council provides it. This is important because there is a statutory right to review the suitability of temporary accommodation. This then carries a right of appeal to county court on a point of law. There is no statutory right to review the suitability of interim accommodation.
14. Refuges may be the appropriate accommodation for victims of domestic abuse. But they are not a substitute for other forms of temporary accommodation. Councils should work with the refuge provider to consider how long a person needs to stay before the provision of other accommodation (which may be temporary in the absence of settled accommodation) may be appropriate. (Homelessness Code of Guidance, paragraph 21.42)
15. Wherever possible, Councils should avoid using Bed and Breakfast (B and B) accommodation. (Homelessness Code of Guidance paragraph 17.33)
16. B and B accommodation can only be used for households which include a pregnant woman or dependent child when no other accommodation is available and then for no more than six weeks. B and B is accommodation which is not self-contained, not owned by the council or a registered provider of social housing and where the toilet, washing, or cooking facilities are shared with other households. (Homelessness (Suitability of Accommodation) (England) Order 2003 and Homelessness Code of Guidance paragraph 17.35)
17. The duty to provide suitable accommodation is immediate, non-deferable, and unqualified. (Elkundi, R (On the Application Of) v Birmingham City Council [2022] EWCA Civ 601)

How we considered this complaint

18. We produced this report after examining relevant documents.
19. 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 we completed the report.

What we found

What happened

20. The following is a summary of the key events that we considered. It does not include everything that happened.
21. In early 2023, Ms X approached the Council for assistance as she and her children were fleeing domestic abuse. The Council accepted the relief duty and a

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- duty to provide interim accommodation. It initially placed Ms X and her children in B and B accommodation. It then referred Ms X to a refuge which provided self-contained accommodation to her and her children.
22. A few months later Ms X contacted the Council on a number of occasions as she thought the accommodation provided by the refuge was unsuitable. She thought the accommodation was negatively affecting her and her children's health conditions and was too far from her support network. Ms X also raised concerns about harassment from her neighbours. The Council did not respond.
 23. In summer 2023, Ms X made a complaint to the Council about officers not responding to her calls about the suitability of the accommodation. The Council apologised to Ms X for the lack of contact from her case officer. It advised Ms X to contact the refuge for alternative accommodation.
 24. The refuge contacted the Council to advise it could not provide alternative accommodation for Ms X and her children. The refuge told the Council that Ms X was struggling with a number of health and emotional issues. The Council's records show Ms X continued to contact the Council to request more suitable accommodation. Its records also note that Ms X did not want to move into B and B accommodation.
 25. In August 2023, the Council ended the relief duty and accepted the main housing duty to Ms X. The Council should have taken this action at the end of March 2023 as the relief duty generally expires after 56 days. The Council has said the delay was due to staff shortages. The Council did not consider if the refuge accommodation was suitable temporary accommodation for Ms X and her children. It also did not notify Ms X of its decision to accept the main housing duty and her right to seek a review of the suitability of the refuge accommodation.
 26. The Council's records show it offered B and B accommodation to Ms X as temporary accommodation. Ms X declined the offer but said she would accept self-contained accommodation. Ms X also notified the Council that she was looking for private rented accommodation but this was not affordable. The Council advised Ms X how to contact its private rented sector team and how it could assist with affordability. Ms X provided the Council with details of a private rented property. Emails between Ms X and the Council show it considered the property but decided the rent exceeded the amount it could support.
 27. Ms X has provided evidence to show she gave the Council details of other rental properties. She has said the Council did not respond.
 28. In early 2024, the refuge issued an eviction notice to Ms X as she no longer needed its services. The Council offered B and B accommodation to Ms X. The Council's records note that this was the only accommodation it had available.
 29. Ms X accepted the B and B accommodation. The Council provided one room for Ms X and one of her children, and another room for her other child. The Council told Ms X by email of the hotel charges that would not be covered by housing benefit.
 30. The Council sent an agreement to Ms X for the B and B accommodation. This wrongly referred to the Council providing the B and B accommodation as interim accommodation. The Council had accepted the main housing duty to Ms X so this was temporary accommodation. The Council did not tell Ms X of her right to seek a review of the suitability of the B and B accommodation. Ms X and her children remained in the B and B accommodation for 19 weeks.

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31. We understand the Council intended to offer a three-bedroom property to Ms X in May 2024. However, Ms X's housing need changed as one of her children moved away which meant the number of bedrooms she needed reduced from three, to two.
 32. In July 2024, the Council offered a one-bedroom property to Ms X. An email from Ms X's case officer acknowledges the property is not ideal for her and her child. The letter offering the property to Ms X does not explain her right to seek a review of the suitability of the accommodation.
 33. In response to my enquiries, the Council has said:
 - It failed to act in a timely way to Ms X's concerns about the suitability of her refuge accommodation and it should have done more to move her and her children.
 - Its response time to Ms X's communications was inadequate.
 - It has reminded officers of the importance of considering if interim accommodation is suitable as temporary accommodation when accepting the main housing duty.
 - Due to the housing crisis, suitable temporary accommodation has been difficult to source. The Council has been forced to use B and B accommodation as an alternative, for longer periods of time than it should.
 - As of May 2024, the Council had 258 families in B and B accommodation. 170 of those families have been in B and B accommodation for longer than six weeks.
 - The Council has taken a number of actions to reduce its use of B and B accommodation. These include:
 - 50% of family social housing being let as direct offers to homeless applicants, with 80% going to those in unsuitable temporary accommodation;
 - additional accommodation and leases being acquired;
 - engaging with registered social landlords for help in increasing the supply of temporary accommodation;
 - Significantly investing in affordable housing to increase the supply of temporary accommodation;
 - Appointing additional Homelessness staff.

Conclusions

Private sector housing

34. Ms X has said the Council failed to act on her requests for assistance to secure a private rented property through its private sector housing team. The Council's records show it referred one property identified by Ms X to its private sector team to see if the Council could help to secure it. The emails show the Council considered the property was unaffordable and it notified Ms X of this decision. We do not know how the Council considered the other properties identified by Ms X. But it is not proportionate to investigate this matter further as we cannot conclude, even on balance, that Ms X would have secured a private rented property. We cannot know if landlords would have let the properties to Ms X even if the Council had provided assistance.

Interim accommodation

35. Ms X considers the refuge was unsuitable interim accommodation. We do not consider the Council is at fault for initially placing Ms X in the refuge accommodation. It is appropriate for councils to offer refuge accommodation to applicants fleeing domestic abuse to enable them to receive support.
36. The Council has acknowledged it should have done more to assist Ms X when she raised concerns about the suitability of the accommodation provided by the refuge. It has also acknowledged that it did not respond in a timely way to her requests to move. We agree the Council is at fault.
37. The Council had accepted a duty to provide suitable interim accommodation for Ms X. It should therefore have considered if the accommodation provided by the refuge remained suitable or if it needed to provide its own interim accommodation when Ms X raised her concerns about the suitability. 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.
38. On balance, we consider the Council would have offered B and B accommodation to Ms X sooner if it had given proper consideration to her concerns about the suitability of the refuge accommodation. But we cannot say, on balance, Ms X would have accepted that accommodation at the time. This is because Ms X refused B and B accommodation when it was offered in November 2023. But the Council's delay in responding to Ms X's concerns and arranging alternative accommodation caused her distress.

Delay in accepting the main housing duty

39. 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.

Suitability of accommodation

40. The Council has acknowledged it failed to consider if Ms X's interim 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 Ms X that it had accepted the main housing duty also meant it failed to tell her about her statutory right to seek a review of the suitability of the temporary accommodation. This was fault which denied Ms X the opportunity to seek a review.
41. The Council wrongly notified Ms X that the B and B accommodation was interim accommodation. The Council had accepted the main housing duty, so the B and B accommodation was actually temporary accommodation. This fault meant the Council failed, once again, to notify Ms X of her statutory right, and denied her the opportunity to seek a review of the suitability of the accommodation provided by the Council.
42. Ms X and her children lived in the B and B accommodation for 19 weeks. We are mindful of the significant challenges faced by councils in procuring temporary accommodation to meet the needs of increasing numbers of homeless families.

But the law is clear that councils can accommodate households with children in B and B accommodation only as a last resort, and for no longer than six weeks. We accept the Council's evidence that B and B accommodation was the only accommodation available at the time. Not moving 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. Ms X's family were split over two rooms and they had no access to cooking facilities. This caused significant distress to Ms X and her children, caused avoidable expense, and is likely to have had a detrimental impact on their mental health.

43. Ms X has said the Council did not inform her of the additional charges made by the hotel. The Council's records show it notified Ms X of the charges that would not be covered by housing benefit. We are therefore satisfied the Council properly notified Ms X of the charges when she moved into the B and B accommodation.
44. The Council has now moved Ms X and her child to a one-bedroom self-contained accommodation. The Council has accepted the main housing duty to Ms X so this accommodation is temporary accommodation. Ms X has provided correspondence with the Council which shows it did not notify Ms X of her statutory right to seek a review of this temporary accommodation. The failure, once again, to notify Ms X of her right to seek a review is fault and denied her the opportunity to do so.
45. As stated above, we acknowledge the significant difficulties the Council is facing in procuring self-contained accommodation. We are also mindful that it moved Ms X and her child from B and B accommodation to improve their living conditions. But the law says that temporary accommodation must be suitable to meet an applicant and their household's needs. Ms X requires a two-bedroom property but the Council has placed her in a one-bedroom property. We therefore consider, on balance, that a statutory review of Ms X's temporary accommodation would have found it to be unsuitable as it does not meet her bedroom need. As a result, Ms X and her child continue to live in unsuitable accommodation.
46. 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.
47. 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 has to 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.

Recommendations

48. 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)

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49. In addition, the Council should take the following actions within three months of this report.
- Send a written apology to Ms X for distress caused by the faults identified above. 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 in making the apology.
 - Make a symbolic payment of £500 for the distress caused to Ms X by failing to respond to her concerns about the suitability of her refuge accommodation, failing to notify her of the decision to accept the main housing duty and the missed opportunities to seek a review of the suitability of her accommodation.
 - Make a symbolic payment of £1,300 for the distress caused to Ms X and her children by living in unsuitable B and B accommodation for 13 weeks longer than they should have done.
 - Make a symbolic payment of £150 per month to Ms X for every month she remains in unsuitable temporary accommodation.
 - Draw up an action plan, with clear timescales, for reducing the number of families in B and B accommodation for over six weeks and moving them into suitable temporary accommodation. The Council should provide a quarterly report on progress 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 B and B accommodation over six weeks.
 - 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.
 - Review its template letters to ensure it notifies applicants 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.
50. The Council has agreed to comply with some of the recommendations. It has not agreed to make the symbolic payment of £1,300 or pay Ms X £150 for each month she remains in unsuitable temporary accommodation.

Final decision

51. We have completed our investigation into this complaint. There was fault by the Council which caused injustice to Ms X. The Council should take the action identified at paragraph 49 to remedy that injustice.