

<b>Subject:</b>	<b>Local Government and Social Care Ombudsman Report</b>		
<b>Date of Meeting:</b>	<b>24 July 2018</b>		
<b>Report of:</b>	<b>Executive Lead Officer - Strategy Governance &amp; Law</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Brian Foley</b>	<b>Tel: 01273 293109</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE**

The special circumstances for non-compliance with Council Procedure Rule 3, Access to Information Procedure Rule 5 and Section 100B(4) of the Local Government Act 1972 (as amended), (items not considered unless the agenda is open to inspection at least five days in advance of the meeting) were that this report is embargoed by the Local Government and Social Care Ombudsman until 18 July 2018 on which date the Report is formally published and no longer subject to a press embargo

**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Audit & Standards Committee has a role to provide independent scrutiny of the way the authority discharges its powers and duties. As a part of this role the Committee may be asked to consider public Reports issued by the Local Government and Social Care Ombudsman (LGSCO).
- 1.2 This paper provides the Committee with a public Report issued and published by the LGSCO on 18 July 2018, in which the Ombudsman has made a finding of fault on the part of the Council causing injustice.
- 1.3 When a Report of this type is issued, the local authority concerned is under a duty to consider it pursuant to the Local Government Act 1974 and to notify the LGSCO of decisions taken in relation to it.
- 1.4 This paper provides details of the complaint, the findings and recommendations of the Ombudsman, and the service improvements identified by the Head of Housing Needs as a result of the Report, and in doing so meets the requirement indicated at para 1.3.

**2. RECOMMENDATIONS:**

- 2.1 That the Committee consider the Ombudsman's Report as provided in Appendix 1 and note that the recommendations arising from it which are listed below have been carried out:

- a. apologise to Miss X;

- b. pay £750 to recognise the injustice caused by its decision to leave her and her son Z in unsuitable temporary accommodation between July and September 2016;
- c. pay £100 for the six months it took to reimburse storage charges;
- d. pay £150 to recognise the time and trouble caused by its delay and poor handling of her complaint;

2.2 That the Committee approve the following steps:

- A formal written response be sent to the Ombudsman explaining the steps taken to comply with the recommendations in his Report.
- That the Council will place two public notice announcements in local newspaper or newspaper websites within two weeks of receiving the report.
- That the Council will make copies of the report available free of charge at Hove Town Hall for a period of three weeks.
- That this report be put before the Council's Housing and New Homes Committee, for noting.

### 3. **CONTEXT/ BACKGROUND INFORMATION**

- 3.1 The Ombudsman's Report concerns a complaint regarding events which took place between June and September 2016 which demonstrated a failure to satisfactorily discharge the statutory duties the Council owed a homeless person and her disabled son.
- 3.2 The council had been given notice on 180 properties during 2016 and were under extreme pressure to provide suitable temporary accommodation for the families which had to be moved.
- 3.3 Miss X referred her complaint to the Ombudsman in March 2017. There were five elements to the complaint. Miss X complained that the council:
- made her unsuitable offers of accommodation when she was homeless;
  - did not reimburse her within a reasonable time for storage charges she paid while she was homeless and living in temporary accommodation;
  - took too long to consider and reply to her complaints;
  - did not fully address her complaints that some officers made unprofessional comments in its reply to the Stage Two complaint;
  - wrongly told her she was ranked first on the shortlist for a property which would be ready in September 2016. She therefore stopped bidding for other suitable properties advertised on the Home Move scheme for two months.

## **The Ombudsman's findings**

### **Offer of unsuitable accommodation**

- 3.4 The Ombudsman accepted that the Council faced considerable difficulties and was working against the clock to find temporary accommodation in a suitable location that would meet Z's needs.
- 3.5 The Ombudsman acknowledges that the Council faced a significant reduction in the supply of leased properties at this time.
- 3.6 The Ombudsman said that on 5 July the Council decided the property was "clearly unsuitable" for Miss X and that she had little choice but to accept the property as, if she had refused, the Council would have ended its housing duty.
- 3.7 The Ombudsman accepts there was evidence that the Council had no alternative temporary accommodation for Miss X in the month leading up to the offer of the property.
- 3.8 Furthermore, he accepts that the decision to place Miss X in this flat was made in extremely difficult circumstances.
- 3.9 He said that the Council knew from the outset that the new temporary accommodation was unsuitable for Miss X and Z's needs because of the noise being caused by the person living in the flat above which was witnessed at the time of the viewing by Miss X and the Housing Officer.
- 3.10 The Ombudsman concluded the Council should have done more to investigate the issues of anti-social behaviour from the neighbour and to find more suitable temporary accommodation for Miss X before September 2016.
- 3.11 The Ombudsman stated he has not seen any evidence that the Housing Needs Service had due regard to its legal duty to safeguard and promote Z's welfare.
- 3.12 The Ombudsman reported that the Council has a legal duty to ensure any offer of accommodation is suitable for the needs of the applicant and household members.
- 3.13 He said the Council cannot circumvent that duty by telling applicants to move into unsuitable accommodation and then request a suitability review.
- 3.14 Miss X and her son lived in this accommodation for almost two and a half months. During that time they were exposed to noise and were threatened by the neighbour. Her son was not able to use his sensory equipment, which he required to meet his needs. They stayed with Miss X's mother some of the time because of concerns for their safety.
- 3.15 The Ombudsman found that Miss X and her son suffered a serious injustice due to service delivery failure on the part of the Council.

### **Reimbursement of storage charges**

- 3.16 The Council took six months to reimburse Miss X's storage charges. It lost her receipts and took far too long to ask her for copies.
- 3.17 Miss X is on a low income and it caused her some financial hardship to wait so long for this payment.
- 3.18 She paid the storage charges by borrowing money from family and friends. She did not take out a commercial loan so she did not incur any interest charges.
- 3.19 The Council recognises the delay was unacceptable.

### **Responding to Miss X's complaints**

- 3.20 There was an unacceptable delay in dealing with the complaint Miss X's friend made on her behalf to Housing Needs on 5 September 2016. The Council did not keep Miss X informed about the reasons for the delay. Miss X and her friend spent time chasing replies. This added to Miss X's distress and frustration.
- 3.21 The Council accepts the complaint Miss X made to the Housing Needs service in September 2016 was handled poorly.

### **Failure to address unprofessional comments in its reply to the Stage Two complaint**

- 3.22 Miss X complains that officers spoke to her in an insensitive and inappropriate way. But she cannot identify two of the officers or give dates for the telephone calls.
- 3.23 The Ombudsman said it is not possible to carry out any further investigation about this issue and there was insufficient evidence for them to reach a finding on this complaint.

### **Shortlist ranking for a property**

- 3.24 The Ombudsman found there was evidence to suggest Miss X and her legal adviser were told by at least one officer that she was ranked first for one of the properties she bid for in early June.
- 3.25 The Council accepts Miss X should not have been given information about her position on the shortlist. It says the officer was trying to be helpful.
- 3.26 The Ombudsman said it was fault to give out this information before the shortlisting process had been completed and formal offers were made.
- 3.27 Overall, this fault did not cause Miss X any significant injustice.

## **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 Not applicable

## **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 Not applicable

## **6. CONCLUSION**

- 6.1 That the Council accepts the decision and recommendations of the Local Government Ombudsman.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The financial impact of failing to provide services in line with legislation or good practice procedures will be met directly by the services involved. In this case this will include the £1,000 payments shown in paragraph 2.1 and the costs of Public Notice announcements. It should also be acknowledged that such failure can cause reputational damage for the council.
- 7.2 It is essential that any service improvements that are identified through complaint investigations are implemented without delay and that managers are proactive in reminding and updating their teams on revisions to their procedures and practice.

*Finance Officer Consulted: Name James Hengeveld Date: 09/07/18*

### Legal Implications:

- 7.3 Where the Local Government and Social Care Ombudsman investigates a complaint and finds that there has been a failure in a service which it was the function of a local authority to provide, then it may make a report pursuant to Part III of the Local Government Act 1974. Where a finding of fault is made, such reports may find that the fault has caused injustice to affected persons and may make relevant recommendations.
- 7.1 The requirement in section 31(2) of the 1974 Act that any such report be laid before the authority with 3 months of the date they received it may be discharged by the Audit and Standards Committee, which has delegated powers to consider the report of the LGSCO and to determine actions to be taken by the authority in view of any recommendations. It will be noted that the LGSCO's recommendations that payment in the sums specified be made to the complainant in recognition of the faults which occurred have already been followed. This action has been taken by the Council using the powers available to it pursuant to Section 92 of the Local Government Act 2000.
- 7.2 The proposed recommendations in this report outline the steps which the authority is required to take following receipt of the Ombudsman's report in order to achieve compliance with the requirements of Part III of the Local Government Act 1974.

*Lawyer Consulted: Victoria Simpson*

*Date: 27.06.18*

Equalities Implications:

- 7.3 No Equality Impact Assessment has been carried out.

Sustainability Implications:

- 7.4 There are no sustainability impacts.

**SUPPORTING DOCUMENTATION**

**Appendices:**

1. Report by the Local Government and Social Care Ombudsman. Investigation into a complaint against Brighton & Hove City Council (reference number: 16017200)
2. Information issued by the Ombudsman regarding issuing public reports for Bodies in Jurisdiction

**Documents in Members' Rooms**

1. None

**Background Documents**

1. None