

Report for: Corporate Committee, 22nd March 2018

Item number: 9

Title: Local Government Ombudsman finding

Report

authorised by : Dan Hawthorn, Director of Housing and Growth

Lead Officer: Chris Liffen, Managing Director, Homes for Haringey

Ward(s) affected: Northumberland Park

Report for Key/

Non Key Decision: Non-key

1. Describe the issue under consideration

- 1.1 This report has been compiled following notification of the outcome of a complaint made to the Local Government & Social Care Ombudsman (the Ombudsman) by Ms X, a former homeless applicant placed into temporary accommodation by Homes for Haringey in discharge of the Council's statutory duties owed to her.
- 1.2 The complaint centred on the suitability of the temporary accommodation provided, which had a lack of cold water supply to the kitchen, as well as other defects.
- 1.3 The Ombudsman found fault on the part of the Council, which had caused injustice to Ms X. He also made a number of Recommendations which are included within his report (appendix one) as well as this report.
- 1.4 The purpose of this report is to bring the matter to the Council's attention, and to seek authority to make compensatory payments to Ms X in accordance with three of the Ombudsman's Recommendations.

2. Cabinet Member Introduction

Not applicable

3. Recommendations

It is recommended that Corporate Committee:

- 3.1 Notes the outcome of the Ombudsman's investigation contained in his report dated 31st January 2018.

- 3.2 Accepts the Ombudsman's Recommendations relating to the need to make compensatory payments to Ms X.
- 3.3. Authorises officers to make compensatory payments to Ms X in accordance with the Recommendations made by the Ombudsman in his report.
- 3.4. Notes the subsequent actions undertaken by Homes for Haringey to rectify the situation, and prevent a recurrence.

4. Reasons for decision

In view of the fact that officers and Homes for Haringey (HfH) accept the findings of the Ombudsman, Corporate Committee now has the power to determine whether compensatory payments should be made to Ms X in recognition of the injustice she has sustained as a result of the Council's – acting via Homes for Haringey - actions.

5. Alternative options considered

Council Officers and HfH have accepted the outcome of the Ombudsman investigation, so no other options have been considered.

6. Background information

- 6.1 Ms X made an application to the Council as being homeless in 2015. Her application was accepted by HfH acting for and on behalf of the Council under the terms of the Management Agreement between the two organisations, and she was placed into temporary accommodation (TA). Subsequently, Ms X was transferred to alternative TA on 19 October 2016, a property on an estate used as TA pending regeneration of the area.
- 6.2 The TA in question, along with some other similar tower blocks on the estate, has an old plumbing system not replaced since it was built, and not responsive to increased demand for water. HfH has been aware of problems affecting the block, in particular the higher floors. Whilst solutions have been sought, none have remedied the problem, including the installation of new water pumps in December 2015.
- 6.3 Void repairs were carried out on the property prior to Ms X moving in. When she viewed and then moved into the property, Ms X reported outstanding repair concerns. It appears as though when the heating system was tested there was insufficient water in the tank, leaving Ms X without heating for five days.
- 6.4 Ms X requested a review of the suitability of the accommodation, under section 202 of the 1996 Housing Act, Part VII (as amended), which must be completed within 56 days. The review focused on the size of the accommodation and repair issues including possible mould in the bedroom and a lack of heating and hot water. The review was submitted on 31 October 2016.
- 6.5 On 1 November 2016, Ms X complained to ward councillors about the lack of water and heating and a response to her complaint arranged for surveyors to visit her flat. It also confirmed that a Mechanical Engineer had visited on 16 November and confirmed the lack of a cold water supply to the kitchen. He was

waiting for a contractor report and outcomes from resident surveys prior to ordering any works.

- 6.6 In the response to her complaint, Ms X was advised that her review would be considered separately. She did not receive a response to this request.
- 6.7 Ms X wrote on 8 February 2017 advising of the lack of progress with the repairs and the lack of cold water; the low pressure of which affected the heating and hot water supply. She also complained of problems with lift breakdowns (records confirm 15 failures in 10 months) and of anti-social behaviour.
- 6.8 On 20 February, Ms X was written to by the Feedback team with an apology for the failure to respond to her stage 2 complaint and that she should receive a response to her suitability review within 2 weeks. This did not materialise and the officer due to respond to it had since left his position.
- 6.9 In the meantime, on 6 March 2017, Ms X was put on the list to be transferred to alternative TA. She was offered another property in the same block on 16 May but did not take up the offer due to her concerns about the water supply. The refusal was later accepted by HfH as a reasonable refusal and an alternative offer of accommodation was made.
- 6.10 On 13 June, another officer considered and upheld Ms X's review but this decision does not appear to have been conveyed to Ms X.
- 6.11 On 6 July, the Head of Service (Occupancy Management) wrote to Ms X, accepting that the flat was not suitable as there was no adequate water supply and apologised for the hitherto poor communication.
- 6.12 Ms X met with the Head of Service on 27 July 2017 and he confirmed the outcome of the meeting to her. He acknowledged the lack of water supply, stating that she should be provided with bottled water and again confirmed that the lack of a response to her review and communication with her had been poor. He agreed that bottled water would be delivered. He further advised that a new property, in the private rented sector had been identified for her. Ms X moved into the property on 31 August 2017.
- 6.13 HfH has since changed the way reviews are dealt with; with all review requests now being logged and monitored centrally and sent to an external consultant to make the decision.
- 6.14 The report from the Ombudsman concluded that Ms X spent 10 months in unsuitable accommodation; without an adequate supply of cold water. She used bottled water and was unable to use her washing machine.
- 6.15 This lack of cold water meant the accommodation fell below acceptable standards and she should not have been placed in the accommodation.

- 6.16 There was a failure to respond to Ms X's request for a review of the suitability of the accommodation. The later acceptance that the accommodation was unsuitable does not negate the requirement to issue a review decision.
- 6.17 The Stage 2 Complaint was not responded to. The Ombudsman concluded that her complaint was not fully considered until July 2017 and even then she did not receive the bottled water as had been agreed.
- 6.18 Ms X believed the black marks to the bedroom ceiling to have been mould and it was confirmed only at the end of November that the marks were a result of smoke damage and if she had known this she would have been able to have used the room earlier for her and her baby.
- 6.19 In conclusion, the Ombudsman found that Ms X and her family were left in unacceptable living conditions for far too long. She was put to the inconvenience and expense of buying bottled water and taking her laundry elsewhere, causing the family real hardship. The report commented that the injustice was exceptionally severe and prolonged and made a number of recommendations, which the Authority accepted it would action within 3 months of the date of the report. These were to:
- Send Ms X a letter of apology (from the Council's Head of Service)
 - Pay Ms X £300 a month from October 2016 to August 2017
 - Pay an additional £20 per week to reimburse her for bottled water from 19/10/16 to 31/8/17
 - Pay an additional £15 per week for using laundry facilities for the same period
 - Advise of the steps taken to ensure that other homeless households placed in the block do not experience similar problems
 - Put robust systems in place to log and track the progress of review requests to ensure compliance with the eight-week timescale
 - Remind officers of the requirement to issue a written decision on every review request.

These recommendations have been agreed by both officers, and HfH.

- 6.20 In terms of the Ombudsman's specific findings and recommendations which fall within the terms of reference for the Corporate Committee, the following actions will be undertaken by HfH subject to the Committee's authorisation:
- A payment of £3,000 will be issued for the 10 months Ms X resided in the property.
 - A further £900 (45 weeks of £20) will be paid to Ms X to reimburse her for the bottled water she purchased.
 - A further £675 (45 weeks of £15) will be paid to Ms X to reimburse her for using laundry facilities outside the flat.

6.21 The Corporate Committee is also asked to note that officers intend to take a further report to the Cabinet Member for Housing Regeneration and Planning. That step is required in order to comply with the requirement made by the Ombudsman to provide written evidence of the fact that his report has been considered by “full Council or Cabinet”. In addition, the step is also designed in order to obtain agreement on the action to be taken in relation to the non compensatory parts of the Ombudsman’s Recommendations as follows:

- HfH has apologised in emails to Ms X of 6 July and 27 July 2017 as well as verbally on 27 July 2017. The apologies included acknowledgements of poor service in not carrying out the review Ms X submitted in October 2016. Even though HfH was attempting to source alternative accommodation for Ms X, it still failed to communicate with her sufficiently and she was also apologised to for this. HfH further acknowledged that it did not supply her with drinking water. A further apology following the report will be issued by the Council’s Head of Service.
- HfH has taken the decision not to let properties where there are similar issues with the cold water supply. As well as the property in question, there are another five properties in the block which are void due to the water issue. A further two flats are void in another block for the same reasons.
- HfH has procured a new remote monitoring system for all water tanks, which will provide early warning of issues around water pressure and low water levels in tanks. These are due for installation within the next two months and will ensure that problems are identified and rectified before they impact on residents.
- HfH has created a new senior role within its Mechanical and Electrical Service with responsibility for all water maintenance contracts. This will improve the robustness with which it manages its external contracts. The role will be filled in the next two months.
- HfH has introduced a new major incidents process where a significant loss of service is highlighted to the Executive team and tracked through to completion, ensuring visibility of serious cases from the point in time they emerge to their resolution.
- At the time Ms X’s review was submitted, the process was that reviews were logged to the relevant service manager. This clearly failed to record all reviews received. HfH has since changed this process. All requests for reviews are now logged centrally within Housing Demand and are sent to an independent Reviewer for a decision. The requests are monitored and the Reviewer contacted should there be concerns over whether the review may take longer than anticipated. Prior to a review of the suitability of accommodation being sent to the independent Reviewer, the service considers whether the review request is reasonable. If it is considered to be reasonable then this would be acknowledged and an alternative property sought.
- Customers are written to, acknowledging that their review has been received.
- HfH has introduced a new performance indicator to ensure that suitability reviews are tracked and monitored by the Executive Management team through monthly performance meetings.

7. Lessons learned

- 7.1 HfH is aware that its failure to address the issues at an early stage led to distress for Ms X over the 10 months of her stay at the property and reputational damage for both Homes for Haringey and Haringey Council.
- 7.2 Following the issues at the property, HfH has taken the decision not to let other properties which become vacant at the block until a solution is found and implemented, which ensures that the properties have cold running water and adequate water pressure to run a washing machine.
- 7.3 The Ombudsman's conclusions and recommendations have been fully accepted, and HfH processes have been revised accordingly to ensure that there can be no repetition of the failures to carry out a statutory review.
- 7.4 HfH has implemented a range of changes to its processes and procedures, detailed in the actions taken, to ensure this scenario does not reoccur.

8. Contribution to strategic outcomes

To create homes and communities where people choose to live and are able to thrive (**Priority 5** - Sustainable Housing Growth and Employment)

9. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

Finance

- 9.1 The compensation payments as outlined in paragraph 6.20 amounting to £4,575 will be funded from the Customer Relations (X40130) 2017/18 revenue budget

Procurement

- 9.2 Not applicable

Legal

- 9.3 The Assistant Director, Corporate Governance has been consulted in the preparation of this report, and makes the following comments.
- 9.4 The Corporate Committee has within its constitutionally delegated terms of reference, the power to "[authorise] the making of payments or the provision of other benefits in cases of maladministration" – see Part Three, Section B of the Constitution. Accordingly, the Corporate Committee has the authority to approve Recommendation 3.3 of the report.

Equality

- 9.5 The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not.
- 9.6 The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.
- 9.7 The following groups are more likely to be living in temporary accommodation:
- Black households who, statistically, make up the vast majority of households in temporary accommodation
 - Lone parent households, most commonly headed by women
 - Women, who statistically make up the vast majority of individuals who approach the homelessness service for support
 - Young people who identify as LGBTQ
 - Those with mental health needs
- 9.8 We also know that those living in housing managed by Homes for Haringey are more likely to be:
- Women
 - Black
 - Older (65+)
- 9.9 The lessons learned from this issue mean that HfH will implement new policies and procedures to make sure that problems with housing maintenance are resolved promptly, and that complaints are dealt with effectively. This will help ensure that residents living in housing managed and maintained by HfH, whether temporary accommodation or general needs council housing, are not receiving unsatisfactory housing maintenance, repairs and customer service, and ensures that there is not a negative impact on the groups listed above. This is particularly important for those living in temporary accommodation who are particularly likely to be more vulnerable than most.
- 10. Use of Appendices**
Copy of Ombudsman report (appendix one)
- 11. Local Government (Access to Information) Act 1985**
Not applicable