

Report for: Corporate Committee – 17th June 2019

Title: Report by the Local Government and Social Care Ombudsman into complaints against London Borough of Haringey.

Report authorised by: Dan Hawthorn, Director of Housing, Regeneration and Planning/Sean McLaughlin, Managing Director, Homes for Haringey.

Lead Officer: Denise Gandy, Director of Housing Demand, Homes for Haringey

Ward(s) affected: N/A

**Report for Key/
Non Key Decision: Non-key decision.**

1. Describe the issue under consideration

- 1.1 The Local Government Ombudsman issued a report on 11 April 2019 in response to complaints about temporary accommodation allocated and managed by Homes for Haringey to Ms B (a pseudonym).
- 1.2 This report is for Corporate Committee to consider the findings of that report, to authorise compensatory payments and to further consider the remedies being put in place to ensure that lessons are learned, and changes put into practice.

2. Cabinet Member Introduction

N/A

3. Recommendations

- 3.1 That Corporate Committee notes the outcome of the Ombudsman's investigation set out in his report dated 11th April 2019. See Appendix 1.
- 3.2 That the Corporate Committee notes the recommendations made by the Ombudsman to remedy the injustice, as set out in paragraph 6.22.
- 3.3 That the Corporate Committee accepts the Ombudsman's recommendation that compensatory payments are made to Ms B.
- 3.4 That the Corporate Committee retrospectively authorises officers to make the compensatory payments to Ms B set out in paragraph 6.25.
- 3.5 That Corporate Committee further notes the actions which have been put in place to comply with the Ombudsman's recommendations along with any timescales.

4. Reasons for decision

- 4.1 Authority is required for the compensatory payments and the Corporate Committee needs to be fully advised on how the recommendations are being implemented.
- 4.2 The Ombudsman requires that a report is provided to an appropriate committee of the Council within a set timescale and so the report needs to be considered urgently.

5. Alternative options considered

Alternatives have not been considered because the Local Government Ombudsman required the report to be considered by the appropriate meeting of Councillors.

6. Background information

- 6.1 The Local Government Ombudsman issued a report on 11 April 2019 in response to complaints about temporary accommodation allocated and managed by Homes for Haringey. The report refers throughout to 'the Council' but all the issues covered relate to responsibilities delegated to Homes for Haringey (HfH) in discharge of homelessness and property management functions.
- 6.2 The properties complained about are a three bedroom house with a garden, and a three bedroom flat, both in the borough. Many officers, Councillors and a HfH board member were involved in this complaint and a large amount of time and effort was spent dealing with her concerns. However, the overall response was not well co-ordinated and HfH failed in some critical areas.
- 6.3 Ms B challenged the suitability of the temporary accommodation offers and made several complaints about how repairs requests were dealt with. Neither property was deemed to be unsuitable, either by the Ombudsman or the Reviewing Officer, but the complaint raises cultural, legal and procedural issues, that will be learned from.

Reviews of suitability of Offers of temporary Accommodation

- 6.4 HfH took longer than the statutory timescale to consider Ms B's requests for review of the suitability of temporary accommodation. In January 2018, in response to another complaint, HfH assured the Ombudsman that reviews of suitability of accommodation had been tightened up so there would be no further delays beyond the statutory time limit of 8 weeks.
- 6.5 Ms B lived in two previous properties prior to moving to Property X, the first of two properties investigated by the Ombudsman. This tenancy commenced on 11 December 2017. On that date she requested a review of the suitability of

the accommodation. Later, she was offered Property Y, and she made a request to review the suitability of this on 24 April 2018, a week after that tenancy commenced. When the two reviews were submitted, they were recorded and then passed to an external reviewer for consideration.

Property X Review

6.6 A brief chronology of events for the first property is:

- 11/12/17 – Ms B requested a review of the suitability of the accommodation
- 25/01/18 – Case passed to independent reviewer. Subsequent requests for reviewer to provide decision
- 05/03/18 – Ms B writes to agree an extension of the review to 19/03/18
- 12/04/18 – HfH, on behalf of the external reviewer, requested an extension to 25/05/18, which was not agreed by Ms B
- 17/04/18 – alternative temporary accommodation offered.

Property Y Review

6.7 A brief chronology of events for the second property is:

- 17/04/18 – tenancy commenced
- 24/04/18 – Ms B requested a review of the suitability of the accommodation.
- 01/05/18 – confirmation that request had been passed to the independent reviewer.
- 22/06/18 – email from service to Ms B explaining that the review was delayed
- 17/08/18 – independent review service sought extension to 14/09/18, which was agreed by Ms B
- 03/12/18 – letter confirming that property was considered suitable.

Issues arising from the Reviews

6.8 A number of issues have been identified.

- There were initial delays in referring the request for the review to the independent reviewer
- In August 2018 all new reviews of suitability of offers were brought in-house and we no longer use an independent reviewer. However, the review of the suitability of Property Y was still in progress with the external reviewer and this led to some delay.

- HfH wrongly argued that the start date of the review period is the date we tell the resident the property is suitable. The Ombudsman has clarified it is the date the review request is submitted.
- The Ombudsman felt that improvements had been insufficient since their previous report.
- Directly employing an officer to deal with suitability reviews ensures that they record them as well as conduct them. The need to contact an external provider is avoided, and so is discussion over whether a review has formally started
- Further personnel changes mean that fewer people are now involved in this decision-making process.
- The Ombudsman report lists the reasons Ms B considered Property X to be unsuitable and concludes that none of her concerns rendered the property unsuitable.
- Ms B made a separate complaint to the Ombudsman about the review decision relating to Property Y which the Ombudsman did not pursue.

6.9 An internal review of the process for reviewing the suitability of offers of temporary accommodation, in line with the recommendation from the Ombudsman, has been carried out. Reviews requested between December 2017 and December 2018 have been examined in two parts; those received between 1 December 2017 and 15 August 2018, and those between 16 August 2017 and 31 December 2018. This is to distinguish between suitability reviews submitted before they were decided in-house, and afterwards.

6.10 Between 1 December 2017 and 15 August 2018, 16 reviews were requested. Of these:

- 4 were withdrawn/otherwise resolved
- 3 were completed in time
- 9 were overdue.

6.11 Of the overdue cases, three were found in the customers' favour:

- One was one week overdue and the household, who were being moved from Tangmere were immediately offered alternative accommodation, so no detriment is considered;
- One was moved to alternative temporary accommodation after one month of the decision but seven months after the review request.
- One review was nearly four months late but the tenant is now under offer for alternative temporary accommodation.

6.12 Between 16 August and 31 December, 36 reviews were requested. Of these:

- 9 were withdrawn/ otherwise resolved
- 19 were completed within time
- 8 were overdue.

6.13 Of the overdue cases, one was found in the applicant's favour. It was four days overdue and therefore no significant detriment is considered.

6.14 This review indicates that there are still improvements to be made in the delivery of the reviews service. Reviews must be completed within 56 days unless the person who submitted the review agrees to an extension to that period. We have put additional monitoring in place, with reports going to Director, to ensure that this is now the case.

Repairs complaints about Property X

6.15 Ms B occupied Property X between 11/12/2017 and 08/07/2018. The Ombudsman is concerned with the way the boiler repairs were dealt with, particularly the failure to find a missing screw from the boiler flue. The Ombudsman notes that there was an undersized pipe leading into the building which at times caused a lack of gas supply, causing the cooker jets to fail. HfH was at fault for failing to take action to assist Ms B quickly enough once the gas supply was capped to allow a repair to the gas supply to the building. The Ombudsman notes that the gas supply issue was "not straightforward" but on balance does not find we should have identified the wider gas supply problem.

6.16 The Ombudsman is also concerned at the delay in identifying damp and mould. Housing Management Officers, rather than surveyors, carry out initial inspections of mould and damp. Due to the minor nature of the damp, the Officer concluded it was likely to be due to condensation. Subsequently a more experienced officer visited and found signs of penetrating damp. This caused a delay in repairs to remedy the damp, and the Ombudsman states that HfH was "at fault for its judgement" but that Ms B was not disadvantaged in practical terms.

6.17 The Ombudsman finds fault with the way which reports of cockroaches were dealt with. The Ombudsman has evidence that infestation was reported but HfH is unable to trace this and the Ombudsman has not shared the evidence he has when we requested it. The issue was not reported directly to the Council's Pest Control Service so there were delays in the response.

Repairs complaints about Property Y

6.18 In April 2018 Ms B was provided with keys for Property Y but she did not move in until 02/07/2018.

6.19 The Ombudsman finds fault that the property was let to Ms B before the garden was cleared of rubbish, without curtains or blinds, with signs of rotten doorframes and before being adequately cleaned. Debris was left outside the property for several weeks. The Ombudsman also says repairs to the fabric of the building should have been identified during void works.

6.20 Ms B reported several repairs before and after moving in. Some of these repairs are the contractual responsibility of the property owner, and others were the responsibility of HfH. Confusion around timescales, works raised, and responsibilities were identified by the Ombudsman. The Ombudsman is very clear that the ultimate responsibility for repairs is with the Council/HfH, not the PSL owner.

Issues arising from the repairs complaints

6.21 Issues identified include:

- Housing Officers will be provided with more training on identifying condensation, mould and damp
- We will write to people living in Private Sector Leased accommodation again to remind them how to report a repair or pest control issue.
- The Council relies heavily on Leased Private Sector accommodation for use as temporary accommodation. There can be confusion over the respective obligations of the property owner and the Council, which can be difficult for a general void surveyor to identify. HfH will therefore now recruit a specialist temporary accommodation surveyor.

The Ombudsman's findings

6.22 The Ombudsman found there was injustice to the resident and made the following recommendations:

- An apology to Ms B (a pseudonym) for the injustice
- A payment of £1,600 to Ms B as compensation for the injustice she had experienced. This is comprised of £500 relating to the review failings, £1,000 for faults relating to disrepair and £100 for initially directing Ms B to the wrong Ombudsman.
- Reimbursement for cleaning and purchasing curtains and blinds
- An inspection is made of her current temporary accommodation, where Ms B has the opportunity to highlight any repair concerns, leading to a clear schedule of works.

- An audit of other suitability reviews received between December 2017 and December 2018
- A review of record keeping of repairs for temporary accommodation to ensure that complete records exist and follow up on works not completed.

6.23 HfH and the Council have confirmed the action we have taken or propose to take and that this report is being considered by Corporate Committee to the Ombudsman in line with required timescales.

Response to Ombudsman's findings and lessons learned

6.24 A letter of apology has been sent to Ms B by the Managing Director of HfH.

6.25 A cheque has been issued to Ms B for £1617.50 in compensation for the failure to deal with her reviews in a timely manner, for the delay in addressing disrepair issues, to cover her cleaning costs and to recognise that she was initially directed to the wrong Ombudsman service.

6.26 A visit has taken place to her property, repairs discussed and proposals set out to her.

6.27 Other suitability reviews have been considered and remedied where required. There is now closer monitoring of all suitability review cases, with reporting through to the Director.

6.28 A project group is currently examining record-keeping and responsibilities for repairs of leased temporary accommodation.

6.29 The issuing of the report by the Ombudsman has indicated a need for better training for HfH staff on dealing with complex complaints. This complaint involved a number of teams with officers and managers actively involved in trying to resolve the situation, but this was not done in a decisive and timely way.

6.30 When a large number of complaints are received from a single customer senior management oversight needs to be strengthened and overall responses better co-ordinated.

6.31 Since December 2018 the HfH Board has received reports on all Ombudsman reports and within HfH stronger oversight of current cases will be implemented.

6.32 The Managing Director of HfH meets the Council's complaints managers regularly to review progress with Ombudsman enquiries, stage 2 complaints and other issues to ensure they are processed properly, and all relevant lessons learned.

6.33 HfH and the Council should take the opportunity to meet the Ombudsman if a critical report is anticipated so more constructive input can be given in a timely way.

Conclusion

6.34 This very critical report will have a damaging impact on the reputation of the Council and HfH, but it has usefully highlighted necessary improvements.

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

Finance

7.1. The financial implications are limited to the compensation that has been paid to Ms B. The payment made totals £1617.50. The financial implications of such occurrences is that it has a direct impact on an already stretched temporary accommodation, general fund budget.

Procurement

7.2. There are no specific procurement implications that arise from this report.

Legal

7.3. The Assistant Director of Corporate Governance has been consulted in the preparation of this report.

7.4. 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 the recommendation in paragraph 3.4 of the report.

Equalities

7.5. 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.

7.6. The three parts of the duty applies 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.

- 7.7. Haringey Council and Homes for Haringey have a duty to comply with the Equality Act (2010) across all services and functions, including provision of temporary accommodation. Accordingly, for the Council and Homes for Haringey to ensure that provision of temporary accommodation takes steps to meet the needs of people with protected characteristics where these are different from the needs of other people, and to ensure that provision of temporary accommodation does not increase disadvantages experienced by people due to their protected characteristics.
- 7.8. Homes for Haringey and Haringey Council are not in breach of equalities legislation in the case of Ms B. Local Government and Social Care Ombudsman reviews take into account equalities legislation and the review of this case has not identified any failure to discharge the Public Sector Equality Duty.
- 7.9. Equalities are routinely considered in ongoing service delivery and in suitability reviews. Officers will ensure that temporary accommodation is provided in line with the principles of the Equality Act (2010) noted in para. 8.4 and 8.5

8. Use of Appendices

Appendix 1: **Report by the Local Government and Social Care Ombudsman – Investigation into complaints against London Borough of Haringey (reference numbers 17 017 941 and 18 005 090)**

9. Local Government (Access to Information) Act 1985 N/A