

**Report for:** Cabinet Member Signing

**Item number:** 5

**Title:** Ombudsman decision

**Report authorised by:** Beverley Tarka

**Lead Officer:** Denise Gandy

**Ward(s) affected:** All

**Report for Key/  
Non-Key Decision:** Non-Key

## **1 Introduction.**

- 1.1 This report updates the Cabinet Member for Housing Services, Private Renters and Planning on a recent Local Government and Social Care Ombudsman decision and the outcome of a review into how the Council takes account of its Equality Act 2010 duties when considering the suitability of temporary accommodation for homeless families.
- 1.2 The report also recommends steps which can be taken to ensure Equality Act duties are properly considered in future.

## **2 Cabinet Member Introduction.**

- 2.1 This Ombudsman case further highlights the challenges faced by Haringey and other boroughs in response to the homelessness crisis in London. As a borough, we are working hard to mitigate these impacts - but more fundamental change is needed. Despite being one of the best performing councils for homelessness prevention, the Council continues to experience a high level of homelessness demand. We are seeing an increase in demand in three main areas: evictions from the private rented sector, approaches from refugee households and approaches from people fleeing domestic abuse. Furthermore, the number of landlords quitting London's temporary accommodation sector has risen by 140%, making hotel accommodation the only remaining option.
- 2.2 The reduction in availability of affordable private sector lets has affected the ability to move families who are facing homelessness to alternative settled accommodation rather than into temporary accommodation. Boroughs are attempting to find accommodation in a market that is broken and can no longer meet the housing needs of those who need accommodation most.

## **3 Recommendations.**

It is recommended that the Cabinet Member

### 3.1 Notes: -

- (a) the Ombudsman's decision letter (appendix A)
- (b) the summary of the current TA Placement Policy and its EQIA (paras 6.5 - 6.9)
- (c) the review of how the policy was used in practice (paras 6.10-6.19).

### 3.2 Approves the amendment of the Temporary Accommodation Placement Policy to include the Priority for Accommodation Type as set out in Appendix C.

## 4 Reasons for decision.

4.1 The current Temporary Accommodation Placement Policy does not include guidance on the use of hotels and bed and breakfasts.

4.2 Although the Council has a requirement to follow the Homelessness Code of Guidance and the Homelessness (Suitability of Accommodation) (England) Order 2003, adding the proposed additional text to the TA Placement Policy as recommended at 3.2 will confirm the Council's commitment to keeping to this Guidance.

## 5 Alternative options considered.

The Council could continue with its current practice/policy.

5.1 This option was rejected as this does not reassure the public that the Council is committed to the application of the Homelessness Code of Guidance and the Suitability of Accommodation Order

## 6 Background information.

The Ombudsman Decision

6.1 The Ombudsman's investigation was of a complaint from Mr B who had been placed in a series of bed and breakfasts.

6.2 The specifics of the complaint were that:

- The Council did not support Mr B appropriately when he was being evicted from Temporary Accommodation (TA) provided by the Council which had been ended as the owner wanted to sell their property.
- Between April 2023 and August 2023 Mr B's family were placed in unsuitable hotel accommodation with no cooking facilities and that the family had to move between different hotels frequently.
- The limited room, lack of cooking facilities and need to move frequently caused significant instability to the family causing the children to miss school and led to distress to the family, particularly to Mr B's disabled children.

6.3 The Ombudsman found that:

- Mr B's family were placed in B&B accommodation for 18 weeks between early April and early August 2023 and that the use of B&B accommodation for the family represents a service failure by the Council.
- Mr B's family includes two Autistic children and the unsuitability of this type of accommodation and the instability caused by the need to move regularly between different locations is likely to have placed them at a particular disadvantage.
- Though the Council faced difficulties in finding new temporary accommodation in the area, the Council did not indicate that it had considered how this disadvantage could be mitigated.
- The Council's Temporary Accommodation Placement Policy states that some priority will be given for in-borough accommodation where an applicant's children have special educational needs and attend a school in the borough.
- The Council did not provide evidence that any additional priority was afforded to the family for in-borough accommodation despite one of the children's Education, Health and Care (EHC) Plan naming a school in the borough.

6.4 The Ombudsman decision was that the Council did not have sufficient regard to its duty under the Equality Act to prevent indirect discrimination to two of Mr B's children. This was found to be fault.

6.5 Changes in the private sector market has resulted in fewer properties available which can be used to house homeless families, and the use of hotel accommodation as a last resort. Albeit under challenging circumstances, we accept that we did not discharge our duties in relation to the Equalities Act and have apologised for this.

The Temporary Accommodation Placement Policy

6.6 The current Temporary Accommodation Placement Policy was approved by Cabinet on 18 October 2016.

6.7 During the Policy's development, an Equalities Impact Assessment was prepared which undertook assessments of how the new policy might affect each individual household in temporary accommodation. The policy was also designed to ensure that priority for in-borough accommodation was given to exceptional cases.

6.8 The main aim of the policy was to set down priorities for in-borough

accommodation and accommodation in neighbouring boroughs.

6.9 The full policy is presented at Appendix B but a summary of the priorities for in-borough accommodation includes where a member of the household had one of the following (and where there was a specialist service or support which cannot be easily transferred)

- a severe and enduring health condition
- a significant package and range of health care options
- a severe and enduring mental health problem
- a child registered on the Child Protection Register
- a child with special educational needs
- someone providing long term and significant care and support.

6.10 The policy also gives priority for any other special circumstance that would be taken into account including any particular needs of the children in the household not already identified.

6.11 The combination of these criteria would, if the Council had had alternative accommodation available to allocate, have meant the complainant would have been placed in-borough.

6.12 However, the main part of the complaint is around the changing location and placement in bed and breakfast accommodation. While the current policy (if applied as written) would partly address the changing location issue by giving them priority to at least remain in-borough, the policy does not set out the type of temporary accommodation a household might be placed in.

6.13 At that time the Council rarely placed people in Bed and Breakfast accommodation except in rare emergency placements and the suitability of different types of accommodation was set out in the 2018 Homelessness Code of Guidance and other legislation/guidance which the Council was legally required to use.

6.14 However, with a reduction in the supply of self-contained accommodation, longer term placements into Bed and Breakfasts have become common place across London. To avoid any doubt, it is therefore recommended that this guidance is added to the current TA Placement Policy and a commitment confirming that the Council will follow this when deciding on the use of Bed and Breakfast accommodation. This includes an update to the Guidance on 28<sup>th</sup> February 2024, which make it explicit that temporary accommodation should not be considered suitable for a family with children under 2 if there is not enough space for a cot. It also states that housing authorities should support families to secure a cot where needed. These changes are set out in Appendix C.

#### Review of Equality Act considerations

6.15 The Council has recognised for a long time that the use of hotel accommodation to meet its statutory duties is something that needed

addressing as a priority. The impact on the households placed, including those with protected characteristics such as disability in this case, is significant and the position presents significant financial and reputational risks to the Council.

- 6.16 The Council is therefore, committed to moving away from a reliance on hotels as soon as possible and the plans to do this are contained in the Council's B&B Elimination Plan.
- 6.17 Mr B explained that his Autistic children struggled with the need to move regularly. Mr B and his family were placed in Travelodge hotels in Brent Cross, Cricklewood, Hackney and Manor House between 6 April to 28 June 2023, at which point they were transferred into Cranbrook Hotel, which was one of the block-booked hotels procured by the Council.
- 6.18 In recent months, the Council has been developing a Hotelier Framework to allow the Council to transition away from the use of high-cost commercial hotels and towards a block-booked approach with suppliers who specialise in the provision of hotels to meet homelessness need. For example, these hotels may have cooking facilities, additional security and cleaning that are unavailable in other hotels.
- 6.19 A benefit of moving away from the Commercial hotel approach is that families can have more stability by avoiding the need to relocate to different hotels across London. This approach involves reserving blocked booked rooms in hotels that are as close to the borough as possible, at a fixed rate that has been agreed upon for the duration of the term.
- 6.20 This also helps to reduce costs and competition from other councils. It is important to note that all of the rooms are exclusively reserved for Haringey residents and cannot be used by other Councils.

## **7 Carbon and Climate Change**

- 7.1 Not applicable.

## **8 Statutory Officers comments**

### Finance

- 8.1 Finance notes the content and recommendations of this report, and the implications of the use of B&B accommodation as temporary accommodation. There are plans to minimise the use of this type of accommodation. Finance will continue to work with the housing demand service to assess the impact of this and the proposed changes on the relevant budgets.

### Strategic Procurement

- 8.2 Strategic Procurement notes the content and recommendation of the report, and that no procurement decision is required by the report recommendation in section 3.

Assistant Director of Legal & Governance

- 8.3 The Assistant Director of Legal and Governance has been consulted in the drafting of this report.
- 8.4 The Council is required to give public notice by advertisements in newspapers stating that copies of the Ombudsman's report will be available to inspect by the public at the Council's offices for a period of three weeks (s.30 Local Government Act 1974).
- 8.5 Where a report such as this is made by the Ombudsman, it must be laid before the authority (s.31 Local Government Act 1974). In cases such as this where the Council is operating executive arrangements, "the authority" means the executive, i.e. Cabinet (s.25(4ZA) Local Government Act 1974).
- 8.6 The monitoring officer is obliged to consult with the head of paid service and chief finance officer, and prepare a report to Cabinet. This report must be sent to each member of the authority and Cabinet must meet within 21 days thereafter. Implementation of the proposal or decision must be suspended until after the report has been considered by Cabinet (s.5A Local Government and Housing Act 1989).
- 8.7 Where Cabinet considers an Ombudsman's report and it is considered that a payment should be made or other benefit given to a person who has suffered injustice, such expenditure may be incurred as appears appropriate (s.31(3) Local Government Act 1974).
- 8.8 The Ombudsman must be informed of the action taken by the Council and any action it is proposed to take within 3 months of the date on which the Council received the report, or such longer period as may be agreed by the Ombudsman in writing (s.31(2) Local Government Act 1974).
- 8.9 If the Ombudsman does not receive notification of such action or is not satisfied with it, he will make a further report explaining this and making recommendations. He can also require the Council to make a public statement in any two editions of a newspaper circulating the area within a fortnight (s.31(2A) and (2D) Local Government Act 1974).
- 8.10 An Ombudsman's report should not normally name or identify any person (s.30 Local Government Act 1974). Therefore, the complainant is referred to as "Mr B" and officers have not been identified.
- 8.11 Other legal implications are set out in the body of the report.
- 8.12 There is no legal reason why the Cabinet Member should not adopt the recommendations in this report.

## Equality

- 8.13 The council has a Public Sector Equality Duty (PSED) 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 protected characteristics and people who do not
  - Foster good relations between people who share those characteristics and people who do not
- 8.14 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.
- 8.15 Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.
- 8.16 This report covers an Ombudsman decision regarding a complaint from a Haringey council tenant living in temporary accommodation. The Local Government and Social Care Ombudsman found that the Council did not provide appropriate alternative accommodation or support for Mr B and his family, which includes two Autistic children, when they were evicted from temporary accommodation.
- 8.17 Between April 2023 and August 2023 Mr B's family, which includes two autistic children were placed in unsuitable hotel accommodation with no cooking facilities and that the family had to move between different hotels frequently. In doing this the Ombudsman has found that Haringey Council did not have sufficient regard to its duty under the Equality Act to prevent indirect discrimination to Y and Z. Where the Council should have considered the disproportionate impact so many moves would have on the two children with autism.
- 8.18 As set out in 6.14, the Council recognises that the use of hotel accommodation to meet its statutory duties is something that needs to be addressed as a priority and that it negatively impacts on households particularly those with protected characteristics.

- 8.19 The Council has introduced two mitigations as part of a broader response to these challenges, which aim to address the negative implications of this decision.
- 8.20 Firstly, the Council's B&B Elimination Plan outlines a series of steps to move away from a reliance on the use of hotels. Secondly, a new Hotelier Framework will allow the Council to transition away from the use of high-cost commercial hotels and towards a block-booked approach with suppliers who specialise in the provision of hotels to meet homelessness need.
- 8.21 Finally, recommendation D "The amendment of the Temporary Accommodation Placement Policy to include the Priority for Accommodation Type as set out in Appendix C" should help make it clearer when it is appropriate to use B&B accommodation and help to prevent these circumstances from repeating.
- 8.22 The above plans and changes should have a positive impact on the Council's ability to meet its duty under the Equality Act 2010 with regards to temporary accommodation placements.

## **9 Use of Appendices**

Appendix A – The Ombudsman's final decision

Appendix B - The Temporary Accommodation Placement Policy

Appendix C - Additional Text to be added to the TA Placement Policy

## **10 Background papers**

- B&B Elimination Plan  
[http://minutes.harinet.haringey.gov.uk/documents/s142041/Checklist%20for%200Ending%20BB%206wks%20Sept%202023\\_.pdf](http://minutes.harinet.haringey.gov.uk/documents/s142041/Checklist%20for%200Ending%20BB%206wks%20Sept%202023_.pdf)
- 3 April 2018 Homelessness Code of Guidance Section 17\*  
<https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities/chapter-17-suitability-of-accommodation>

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