

**Report
on an investigation into
complaint no 13 002 073 against
Kingston upon Hull City Council**

23 January 2014

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against Kingston upon Hull City Council**

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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 A - the complainant

Report summary

Housing

Ms A was homeless and approached the Council for help. The Council decided it had a duty to arrange suitable accommodation for her, but withdrew her homeless priority after she refused an offer of accommodation it considered suitable. When it confirmed that decision on review, the Council failed to tell her she could appeal the decision in the county court on a point of law. The law says it must do this.

The Council has taken action to remedy Ms A's complaint and is reviewing its practices. However, the Council's failure to inform a homeless person of their legal rights has been repeated in some other cases, and so I have decided to issue this report in the wider public interest.

Finding

Fault found causing injustice and remedy agreed.

Agreed remedy

The Council agreed my recommendation that it should:

- a) provide Ms A with a new decision on her review which includes details of how she can appeal the decision to the county court on a point of law;
- b) pay her £200 to recognise the injustice caused by its failings;
- c) check its records to identify who else might have been disadvantaged by this error, and to alert them to it. It should carry out a full review of its procedures and its standard template letters. The review should take account of legal advice, to ensure the correct procedures and letters are applied on each case.

The Council has since concluded its offer of accommodation to Ms A was not reasonable, and it will therefore make her a fresh offer of suitable accommodation. An apology and £200 is also being sent to Ms A. It has identified three other people disadvantaged by the failure to inform them of their legal rights, who will be issued with fresh decision letters which includes details of how they can appeal the decision to the county court on a point of law. It has also amended its template letters and is undertaking a review of all related procedures to be completed by 31 March 2014.

The complaint

1. Ms A complains the Council failed to:
 - a) explain why her priority under its housing allocation policy was reduced from Band B to Band C; and
 - b) advise her that she had the right to appeal the suitability of properties in the courts.

Legal and administrative background

2. When a person applies to a housing authority (i.e. the Council) for accommodation and the Council has reason to believe that they may be homeless or threatened with homelessness, a number of duties arise under the Housing Act 1996. These include:
 - a) the duty to make enquiries; and
 - b) the duty to notify the applicant of the decision in writing (section 184), which should include notification of the right to request a review of the decision (section 202) and the right to appeal to the county court (section 204); and
 - c) the duty to secure suitable accommodation for certain applicants pending the outcome of the enquiries (section 188).
3. An applicant has the right to request a review of any decision of a Council as to the suitability of accommodation offered to him or her in discharge of their duty (section 202(1)(f)).
4. The Council must notify an applicant of the reasons for the review decision (section 203(4)). Notice of the decision shall not be treated as given unless and until an applicant has been told of his or her right to appeal to the county court on a point of law (section 203(6)).

How we considered this complaint

5. This report has been produced following enquiries of the Council and discussion with Ms A.
6. Ms A and the Council were given a confidential draft of this report and invited to comment. The comments received were taken into account before the report was finalised.

What happened

7. In October 2012, Ms A left her previous home and went to live with her daughter. In December, she visited the Council's offices and presented herself as homeless. The Council noted she suffered from depression and that her daughter's landlord refused to let Ms A and her two small dogs stay at the property.
8. A Council officer contacted Ms A's previous landlord about why she had given up her tenancy and wrote to Ms A's mental health support worker for information. The officer later contacted Ms A to explain what she was doing. The officer also told Ms A she could ask the Council for temporary accommodation if she had nowhere to go.

The Council could not house the dogs but Ms A was told about a charity which might temporarily look after them. The officer advised Ms A about bidding for properties under the housing allocation scheme.

9. In January 2013, the Council wrote to her saying it accepted she was homeless or threatened with homelessness, in priority need and unintentionally homeless. The Council told her it had a duty to arrange suitable accommodation for her.
10. Her application was placed in Band B under the Council's housing allocation policy. This is for applicants awarded homeless priority. She was advised to start bidding for properties and she was warned that she would receive one offer of suitable accommodation. If she refused the offer, the Council will have fulfilled its duty to her and make no further offers. She was told her homelessness application would be closed and she would be placed in a lower band. She was also told she had a right to request a review of the suitability of accommodation offered.
11. In April, the Council offered Ms A accommodation which she refused. The Council gave her time to reconsider and again warned that refusing the offer would mean it had discharged its duty to her and it would make no further offers of accommodation. The Council also explained that she had the right to ask for a review if she felt the accommodation was unsuitable.
12. As Ms A confirmed her refusal of the offer, the Council removed her priority and placed her in a lower band. Ms A asked for a review of this decision.
13. In May, the Council wrote to Ms A with its review decision. The letter, which followed a standard template, referred to her 'letter of appeal' against the removal of her priority. It told her that she had no grounds 'to appeal this offer of accommodation'. The review confirmed the removal of her priority.
14. The Council's Housing Management Procedure Manual states (A9.4):

'When any decision is made, the customer should be informed in writing. The letter should clearly state the decision, the information that was considered in order to make the decision, and detailed responses to any specific issues the customer may have raised. It should also include details of any further appeal rights they may have.'
15. The decision letter did not refer to a right of appeal to the county court. When this was queried, the Council said:

'Although the applicant has a right of appeal under the Housing Act 1996 S193 (7) there is no further appeal to the Court.'

Conclusions

16. The Council's letters warned Ms A about the consequences of refusing accommodation it considered suitable. She was warned she would lose priority. She was also warned the Council would place her in a lower band under its allocation policy. I have seen no fault in the way it explained what would happen.
17. It is not for me to decide whether the offer of accommodation was suitable. But the letter telling Ms A the outcome of the review failed to provide her with reasons for the decision and failed to set out her appeal rights. The Council said Ms A had no right of appeal to court. This is incorrect. Ms A had the right to appeal the review decision

to the county court on a point of law, and the Council was required to tell her. So the Council did not comply with its policy, or the law. This was fault, as a result of which Ms A suffered injustice because she lost the opportunity to get legal advice about this right and explore whether it was an option.

18. The Council used a standard template for its decision letter and accepts there were failings and that these will have affected other applicants for housing who have refused offers of accommodation. There may, therefore, have been injustice to others as well as to Ms A.

Recommendations

19. The Council agreed my recommendation that it should:
- a) provide Ms A with a new decision on her review which includes details of how she can appeal the decision to the county court on a point of law;
 - b) pay her £200 to recognise the injustice caused by its failings;
 - c) check its records to identify who else might have been disadvantaged by this error, and to alert them to it. It should carry out a full review of its procedures and its standard template letters. The review should take account of legal advice, to ensure the correct procedures and letters are applied on each case.
20. The Council has since concluded its offer of accommodation to Ms A was not reasonable, and it will therefore make her a fresh offer of suitable accommodation. An apology and £200 is also being sent to Ms A. It has identified three other people disadvantaged by the failure to inform them of their legal rights, who will be issued with fresh decision letters which includes details of how they can appeal the decision to the county court on a point of law. It has also amended its template letters and is undertaking a review of all related procedures to be completed by 31 March 2014.



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