

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
London Borough of Islington
(reference number: 17 011 285)**

29 May 2018

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

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

Miss X	The complainant
Ms Y	Miss X's mother
Council B	Another Council area where Ms Y and Miss X were temporarily housed by London Borough of Islington.

Report summary

Education and Children's Services – Child in need

Miss X complains the Council has refused to provide her with assistance with her housing. She says she is homeless as her mother has been evicted from temporary accommodation.

Finding

Fault found causing injustice and recommendations made.

Recommendations

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members. We will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

In addition to the requirements set out above the Council has also agreed to take the following action based on our recommendations:

The Council will try to contact Miss X and offer to carry out an assessment of her needs under the 1989 Children Act with reference to statutory guidance and in conjunction with its housing department. We said the Council should take this action immediately and without delay. The Council has taken this action but has been unable to contact Miss X.

If the Council believes that Council B is responsible for Miss X under the Children Act 1989 it should work with Council B to resolve any disputes. Miss X should not be disadvantaged by any disagreements and the Council should provide any necessary services until the disputes are settled. As the Council has been unable to contact Miss X there is no further action for it to take at this time. However, it should consider this recommendation should Miss X make contact in the future.

The Council has paid Miss X £400 for the distress caused as a result of its failure to provide assistance.

In addition to our recommendations the Council has *“held a complaint learning meeting [about this complaint] ... and [has] disseminated the learning across the [children's services department]”*. We welcome the positive action that the Council has taken to learn from this complaint and avoid similar problems for others in future.

The complaint

1. Miss X complains the Council has refused to provide her with assistance with her housing. She says she became homeless when her mother was evicted from temporary accommodation.

Legal and administrative background

The Ombudsman's role

2. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

The law and homeless 16 and 17 year olds

3. Under section 184 of the 1996 Housing Act a council must make enquiries where it has reason to believe that a person is homeless or threatened with homelessness within 28 days.
4. If a council has reason to believe a person is homeless, eligible for assistance and in priority need it must ensure that accommodation is available for them whilst it carries out its enquiries. 16 and 17 year olds are automatically considered to be in priority need. (*Housing Act 1996, s.188 & 189*)
5. When a 16 or 17 year old approaches a housing department for assistance it must deal with them under the 1996 Housing Act. However, it must also refer the young person to the "responsible" children's services authority for an assessment as to whether or not they are a child in need. In the meantime the housing department should continue to deal with the child under the 1996 Housing Act until the child in need assessment is completed. (*Provision of Accommodation for 16 and 17 year old people who may be homeless and/or require accommodation – Statutory guidance, April 2010*)
6. The law says the "responsible" authority is the authority in whose area the child is "found" even if the child was placed there by another authority. (*Children Act 1989, s.17*)
7. Where a 16 or 17 year old approaches children's services as homeless or threatened with homelessness the children's services department must assess "*whether the young person is a child in need, and determine whether any duty is owed under [the Children Act 1989] to provide the young person with accommodation*". (*Provision of Accommodation for 16 and 17 year old people who may be homeless and/or require accommodation – Statutory guidance, April 2010*)
8. The law says councils have a duty to co-operate with each other. If a council believes another body, including another council, can "*help in the exercise of any of their functions*" it may request help. The other council "*shall comply with the request if it is compatible with their own statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions*". (*Children Act 1989, s.27*)
9. Statutory guidance issued by the government says children's services and housing departments within councils should have written joint protocols which "*set out clear practical arrangements for providing services that are centred on young*

people and their families and prevent young people from being passed from pillar to post". (Provision of Accommodation for 16 and 17 year old people who may be homeless and/or require accommodation – Statutory guidance, April 2010)

How we considered this complaint

10. This report has been produced after examining relevant documents.
11. The complainant 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 we found

12. Miss X's mother (Ms Y) was evicted from her housing association property in August 2017. Ms Y approached the Council for assistance and was placed in interim accommodation in another council's area (Council B) whilst the Council made enquiries into her circumstances.
13. Ms Y also contacted the Council's children's services department at the time of her eviction to say she had nowhere to live and her daughter was about to become homeless. Miss X was 16 years old and still at school.
14. The Council's children's services department carried out an assessment at the time and found Miss X had accommodation available to her with her grandmother. However, Miss X did not wish to be separated from her mother so she moved to the interim accommodation with Ms Y.
15. The Council's housing department found Ms Y intentionally homeless and so it did not have a duty to continue providing her with interim accommodation. The Council served notice on Ms Y informing her she had to leave the interim accommodation.
16. The Council referred Miss X to children's services in Council B. This is because this was the area she was living in at the time even though the Council had placed her there.
17. Ms Y complained to the Council on 16 August 2017. She said her daughter was in education in the Council's area and has no links to Council B. She said it was not her choice to live in Council B's area and she had been placed there by the Council. Ms Y said she wanted her daughter *"back in Islington so she can continue her education... And the social services as well as the housing failed to do this for her"*.
18. The Council replied to Ms Y on 29 August 2017. The Council said that it had *"closed"* Miss X's case. It said it had referred Miss X to Council B as she was resident in that area. The Council said:
"... we have no legal obligation to house you or your child. We are a child in need and child protection service, we do not provide housing. You were provided with temporary accommodation by [the housing department] whilst an assessment was completed... It is not reasonable to expect that your daughter will be able to resume living in [the Council's area] which is one of the most expensive parts of England to live... I need to reinforce the fact that we are a busy front line child protection service and not a housing service. I apologise, if this was your experience but we are not obliged legally to provide you with housing".
19. The letter went on to say:

“Please contact the local children’s service department and discuss your concerns for your daughter’s future accommodation, if it’s the case that you have no other arrangements made, they will need to assess her as a homeless 16 yr old”.

20. Ms Y complained to the Council again on 6 September 2017. Ms Y said Council B had no record of a referral from the Council for her daughter. Ms Y also said that she and her daughter were no longer living in Council B’s area as she had been evicted. Ms Y said she and her daughter were staying between various addresses within the London Borough of Islington’s area.
21. The Council replied to Ms Y on 5 October 2017. The Council said it had faxed a referral to Council B on 18 August 2017 but it could not comment on why it had not received this. The Council said *“whilst I acknowledge housing is a need, it is not an area that the [Child in Need] service deal with and as previously explained the service have no legal obligation to house you or your daughter... I acknowledge that staying on sofas is not ideal for either you or your daughter but I trust your situation will be improved as soon as possible... The council has no legal obligation to provide housing for you or your daughter and the referral [to Council B] was made appropriately on behalf of you and your daughter”.*

Conclusions

22. The Council is at fault for failing to provide services to Miss X as a 16 year old at risk of homelessness.
23. There was no fault in the Council advising Miss X to contact Council B for assistance when she was living in its area. The courts have said that councils have a responsibility to children within their area even if they were placed there by another council. However, Council B has not accepted any responsibility for Miss X and she is no longer resident in its area.
24. Miss X’s mother, Ms Y, explained this to the Council when she contacted it on 6 September 2017. The Council should have carried out an assessment as to what duty it owed Miss X at that time. Failure to do so was fault.
25. Even if the Council did not believe it was legally responsible for carrying out the assessment it was under a duty to secure co-operation from Council B in addressing Miss X’s needs. Its failure to contact Council B was also fault. As a result Miss X and Ms Y were caused some distress and put to unnecessary time and trouble in having to continue pursuing this matter with the Council.
26. The Council was also at fault when it refused to help Miss X when Ms Y contacted it in August 2017 to make a complaint. Whilst the Council believed Council B’s children’s services were responsible for Miss X, the Council failed to identify that Miss X was threatened with homelessness and may be entitled to help from its own housing department.
27. The 1996 Housing Act does not specify which department should deal with homeless applications. The Act says that where a council has reason to believe a person may be homeless or threatened with homelessness within 28 days it should make enquires into what duty it owes. Even if the Council did not believe it was under a duty to Miss X under the Children Act 1989 it should have considered whether it owed her any duty under the 1996 Housing Act.
28. The Council says its children’s services department had contacted its housing department, however there is no evidence a homeless application was accepted

and Council B was not contacted by the Council to find out what, if any, assistance it was offering.

29. Statutory guidance says the Council should have clear protocols between children's services and housing departments to "*prevent young people from being passed from pillar to post*". The Council failed to provide proper assistance to Miss X and she was caused significant distress as a result of the uncertainty around her housing.
30. Following our recommendations, the Council tried to contact Miss X to offer assistance but has been unable to do so. The Council says it has spoken to Miss X's grandmother who has advised that Miss X no longer wants any contact from the Council.
31. The Council says it has tried to contact Miss X at her school but says the school refused to provide contact information as it did not have Miss X's permission to do so.
32. Miss X's whereabouts are currently unknown and neither we nor the Council have been able to contact her directly. The Council's failure to offer services in a timely and proper manner has resulted in a situation where there is considerable uncertainty about the welfare of this young person.

Agreed action

33. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members. We will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
34. In addition to the requirements set out above the Council has also agreed to take the following action based on our recommendations:
 - The Council will try to contact Miss X and offer to carry out an assessment of her needs under the 1989 Children Act with reference to statutory guidance and in conjunction with its housing department. We said the Council should take this action immediately and without delay. The Council has taken this action but been unable to contact Miss X.
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 - The Council has paid Miss X £400 for the distress caused as a result of its failure to provide assistance.
35. In addition to our recommendations the Council has "*held a complaint learning meeting [about this complaint]... and [has] disseminated the learning across the [children's services department]*". We welcome the positive action that the Council has taken to learn from this complaint and avoid similar problems for others in future.

Decision

36. We have found fault causing injustice and the actions we have recommended are a suitable way to remedy this. Therefore, we have now completed this investigation