

**BIRMINGHAM CITY COUNCIL**

**PUBLIC REPORT**

**Report to: AUDIT COMMITTEE**

**Report of: Managing Director of the City Housing Directorate**

**Date of Meeting: 29 November 2021**

**Subject: Ombudsman Report concerning a complaint about the Housing Solutions and Support Service**

**Wards Affected: All**

**1. Purpose of Report**

- a) In December 2006, the Audit Committee endorsed a framework for informing and involving Members of the Council when the Local Government and Social Care Ombudsman issues a report.
- b) The aim of this report is to inform members about the Ombudsman's report, issued on 13 October 2021, regarding the Council's delay in dealing with applications to join the Housing Register.
- c) As the Ombudsman has found fault causing injustice and have made recommendations to remedy the injustice caused, it should be considered by this Committee on behalf of the City Council.

**2. Recommendations**

**That the Audit Committee notes the Managing Director of City Housing's response to the Local Government and Social Care Ombudsman's recommendations.**

### **3. Background Information**

3.1 A copy of the Local Government and Social Care Ombudsman's report dated 6 October 2021 is appended to this report. All Ombudsman reports are anonymous, so, whilst the events described are real, the names of those involved are not included.

3.2 The essence of the complaint:

- Mrs X complained the Council took too long to process her application to join the Housing Register. She also complained the Council didn't properly consider her circumstances before deciding which priority band to award her.
- As a result, Mrs X says her application is in Band 2 but should be in Band 1 and she has missed six months of time on the register. Mrs X says this means her family continues to live in unsuitable accommodation.
- The LGSCO have issued their findings on this matter in a public interest report because the number of people affected by the Council's delay dealing with applications to the register is significant and because the service failure is causing injustice to others who have not complained.

### **4. The Key Events**

4.1 Mrs X applied to the housing register in March 2020. She and her children live in a 2 bedroom flat.

- Mrs X's husband is Mr Y. Mrs X was a carer for Mr Y. Mr Y has a severe and enduring mental illness. His health meant that although he had his own tenancy, Mr Y needed to live with Mrs X. He also needed his own bedroom.
- As a result, the children occupied one bedroom, Mr Y the other, and Mrs X slept in the living room.
- The Council processed the application in September 2020. It awarded Band 3.
- Mrs X asked the Council to look again at its decision about her priority band. She provided some more information from their family support worker about Mr Y's health and its impact on both him and the children.
- The Council reviewed its decision in October 2020. The Council accepted the evidence that Mr Y needed his own bedroom and so assessed the family as needing four bedrooms. It decided that Mrs X's application should be in Band 2. It awarded that band from the date of its decision.

### **5. The Ombudsman's Findings - Fault found causing injustice**

## 5.1 **Priority Band**

The Council's review found that Mrs X should have been in Band 2. The Council did not backdate this priority. In response to our enquiries, the Council accepted that it should have backdated Mrs X's priority band to September 2020, when it processed her application.

The Council has already amended Mrs X's application to remedy this fault.

Mrs X says her application should be in Band 1. The Council says it took all the evidence into account and awarded Band 2 in line with its allocations policy.

We cannot question a council's decision just because someone disagrees with it. We must consider whether the Council made the decision properly, considering all the relevant information, law, and guidance.

At first, the Council got Mrs X's priority band wrong. Its own review identified this and changed the band. The Council considered Mr Y's health and the needs of the children. The Council's decision is in line with its allocations policy, which says Band 2 is for applicants who are lacking two bedrooms or whose health is directly affected by their current accommodation.

Therefore, we do not find fault with how the Council decided to put Mrs X's application in Band 2.

## 5.2 **Delay**

Mrs X applied to the housing register in March 2020. The Council did not process her application until September. This is a period of six months.

The law and guidance do not set out a timescale for processing applications. Nor does the Council's allocations policy. However, we expect councils to deal with applications in a timely manner. Four to six weeks is what we consider an appropriate time to process applications.

The Council delayed Mrs X's application by at least five months. This is fault.

The Council says it has a significant backlog of applications to the housing register. It receives an average of 500 new applications a week.

The Council did not backdate Mrs X's registration date to reflect the delay. This means Mrs X's priority date on the register is later than it would be had the Council dealt with her application more quickly.

The Council has provided evidence to show that Mrs X would not have successfully bid for a property between March and September 2020. We therefore do not find that the Council's delay prevented Mrs X and her family from moving to a more suitable home.

However, the Council uses priority band dates to separate applications in the same band. This means an applicant with a priority band date of March 2020

would be higher on the list than an applicant with a priority band date of September.

Mrs X is not disadvantaged compared to those whose applications were also subject to the delay. She is, however, at a disadvantage compared to those who joined the housing register before the backlog developed, or when it was less significant. This is an injustice to Mrs X.

The law says we can investigate matters which come to our attention in an investigation which may cause injustice to someone who has not complained. In this case, the number of people affected by the Council's delay dealing with applications to the register is significant. Of the on average 500 applications the Council receives each week, 45% will be eligible to join the Housing Register. This means the number of people affected by the Council's fault is increasing by an average of 225 a week.

Although Mrs X did not miss out on a property, it is likely other applicants have. The delay will particularly affect applicants who would attract a Band 1 priority. This is about 8% of applicants. For applicants who need a one-bedroom property, which comprised 42% of the Council's lettings last year, most in Band 1 receive an offer within five months.

Band 1 applicants are most likely to be those with significant disabilities or who need to move in an emergency such as fleeing violence or leaving hospital. These applicants are likely to be the most vulnerable. The delay caused by the backlog is an injustice to these applicants.

## **6. The Ombudsman's Recommendations**

6.1 To remedy the injustice to Mrs X the Council should:

- apologise to Mrs X. Mrs X's first language is not English. The Council should write to Mrs X in her spoken language or apologise verbally through an interpreter; and
- backdate Mrs X's priority band date to the date she applied in March 2020.

When we find fault causing injustice, we can also make recommendations to the Council to improve its services.

The Council recognises there is a significant backlog of housing applications and has already acted to address it. This includes:

- appointing seven extra officers in May 2020; and
- evaluating IT system enhancements.

These changes are welcome. However, the Council should also take action to reduce injustice to future applicants.

This fault affects thousands of current and previous applicants. However, we are conscious that amending these applications would be a big task and the Council is already overwhelmed. Furthermore, any attempt to remedy the injustice to current or future applicants will disadvantage those already on the register by comparison. Considering this, our recommendations seek to address the cause of the injustice by reducing the delay. To this end, the Council should within three months of the date of this report:

- produce an action plan setting out how it will get processing of applications down to four to six weeks, with target dates. The action plan should include the dates of regular reports on progress to the relevant Council committee.
- review its Housing Allocations Policy to ensure any delay by the Council does not impact on an applicant's priority band date.

The Council should address complaints it receives from other applicants about the impact of this delay in line with our recommendations in this report.

The Council has accepted our recommendations.

## **7. The Council's View**

7.1 The Council accepted the Ombudsman's recommendations at the draft report stage.

7.2 The Council has subsequently carried out the following actions:

- A letter of apology was sent to Mrs X, in her spoken language, on 25 October 2021.
- Mrs X priority band has been backdated to 11 March 2020
- An action plan has been produced to reduce the housing application backlog to within four to six weeks by 31 December 2021.
- A review of the Housing Allocations Policy is in progress which includes ensuring that any delay by the Council does not impact on an applicant's priority band date.
- A process has been implemented to address complaints it receives from other applicants about the impact of this delay in line with the recommendations in this report.

## **8. Legal and Resource Implications**

The agreed payments have been made from an appropriate budget.

## **9. Risk Management & Equality Impact Assessment Issues**

- 9.1 The actions taken to date allow the service to implement learnings from this case. Should these actions not be embedded, there is a risk that other housing applicants will experience a delay and incorrect assessment of their housing need. This has the potential to impact upon many housing applicants, so it is essential that the backlog of housing application is reduced and quality checks of the revised processed are embedded.

## **10. Compliance Issues**

- 10.1 The Council has welcomed and complied with all of the Ombudsman's recommendations.
- 10.2 Temporary additional resources are in place to provide extra capacity to assess the backlog of housing applications by 31 December 2021.
- 10.3 A revised Housing Allocation Policy is due to be considered by Cabinet in March 2022.
- 10.4 A revised operational procedure has been implemented to address complaints from applicants impacted by a delay in assessing applications.

## **11. Recommendations**

That the Audit Committee notes the actions being taken in response to the Local Government and Social Care Ombudsman's report.

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