

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

**Investigation into a complaint about
London Borough of Tower Hamlets
(reference number: 23 002 608)**

13 March 2024

The Ombudsman's role

We independently and impartially investigate complaints about councils and other organisations in our jurisdiction. If we decide to investigate, we look at whether organisations have made decisions the right way. Where we find fault has caused injustice, we can recommend actions to put things right, which are proportionate, appropriate and reasonable based on all the facts of the complaint. We can also identify service improvements so similar problems don't happen again. Our service is free.

We cannot force organisations to follow our recommendations, but they almost always do. Some of the things we might ask an organisation to do are:

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

We publish public interest reports to raise awareness of significant issues, encourage scrutiny of local services and hold organisations to account.

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

Mr X	The complainant
Mr Y	The complainant's son
Mr Z	The complainant's representative

Report summary

Housing: Homelessness

Mr X complained the Council delayed in assisting him when he asked for help after receiving a section 21 notice requiring him to leave his private rented accommodation, failed to provide him with interim accommodation between June 2022 and 22 February 2023, did not make proper enquiries before deciding he was not in priority need on 1 February 2023 and delayed in making its decision about whether it owes him a main housing duty. He also complained that the Council did not help him complete forms, despite knowing he was not able to read and write and delayed in responding to his complaint.

As a result of these failings, Mr X and his family say they suffered uncertainty over many months when it was unclear whether and how the Council would assist them. They also said they suffered the humiliation of the bailiffs evicting them and the difficulty and embarrassment of having to ask friends to look after their belongings. They have since spent several months in bed and breakfast accommodation that was far from their support networks and health services. This has affected them mentally and physically and has put a strain on their family relationships.

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 and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended)

The Council should also take the following action within three months of the date of this report:

- apologise to Mr X for the injustice caused by the failings identified;
- pay him £1,000 to remedy the uncertainty, worry and time and trouble caused;
- pay him a further £355 to remedy the avoidable court costs he incurred;
- decide whether it owes him a main housing duty and write to him with that decision;
- review his priority on its housing register in light of its main housing duty decision, and back-date any additional priority to at least 25 October 2022, by which point the Council should have made a main housing duty decision;
- share a summary of the learning from this decision, as well as the full report, with all officers who deal with homelessness applications to ensure lessons are learned from what went wrong in this case;
- remind relevant officers about the contents of paragraphs 6.35 to 6.38 of the Homelessness Code of Guidance for Local Authorities. The Council has said it will instruct officers to record when applicants have elected to assert their legal right and remain in their accommodation until a warrant is issued but otherwise to offer interim accommodation when a valid section 21 notice has been served;

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- remind relevant officers that the Council should make the decision on whether an applicant is vulnerable and on whether they are eligible for medical priority, and not its medical advisers; and
 - provide evidence of the action it is taking to procure interim accommodation in its area, including properties for families.

The Council has accepted these recommendations.

The complaint

1. Mr X complained the Council delayed in assisting him when he asked for help after receiving a section 21 notice requiring him to leave his private rented accommodation; failed to provide him with interim accommodation between June 2022 and 22 February 2023; did not make proper enquiries before deciding he was not in priority need on 1 February 2023 and delayed in making its decision about whether it owes him a main housing duty. He also complained that the Council did not help him complete forms, despite knowing he was not able to read and write and delayed in responding to his complaint.
2. As a result of these failings, Mr X and his family say they suffered uncertainty over many months when it was unclear whether and how the Council would assist them. They said they also suffered the humiliation of the bailiffs evicting them and the difficulty and embarrassment of having to ask friends to look after their belongings. They have since spent several months in bed and breakfast accommodation that was far from their support networks and health services. This has affected them mentally and physically and has put a strain on their family relationships.

Legal and administrative background

The Ombudsman's role and powers

3. 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)
4. We consider whether there was fault in the way an organisation made its decision. If there was no fault in how the organisation made its decision, we cannot question the outcome. (Local Government Act 1974, section 34(3), as amended)
5. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (Local Government Act 1974, sections 26B and 34D, as amended)
6. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court. (Local Government Act 1974, section 26(6)(c), as amended)
7. We cannot investigate a complaint if someone has started court action about the matter. (Local Government Act 1974, section 26(6)(c), as amended)
8. When considering complaints, we make findings based on the balance of probabilities. This means that we will weigh up the available relevant evidence and base our findings on what we think was more likely to have happened.

Relevant law and guidance

Homelessness

9. Part 7 of the Housing Act 1996 and the Homelessness Code of Guidance for Local Authorities (the Code) set out councils' powers and duties to people who are homeless or threatened with homelessness.

Duty to make enquiries

10. Where the council has reason to believe an applicant may be homeless or threatened with homelessness, it should make enquiries to enable it to decide if they are eligible for assistance and, if so, what duty it owes them. (Housing Act 1996, section 184)

Prevention duty

11. If a council is satisfied applicants are threatened with homelessness and eligible for assistance, they owe the applicant the 'prevention duty'. This means the council must help the person to ensure that accommodation does not stop being available for their occupation.
12. Section 175(5) of the Housing Act 1996 says a person is threatened with homelessness if a valid notice under section 21 of the Housing Act 1988 has been served in relation to the only accommodation available for them to occupy and this will expire within 56 days.
13. The Code, at paragraphs 6.35 to 6.38, says:
 - it is unlikely to be reasonable for the applicant to continue to occupy their accommodation beyond the expiry of a section 21 notice, unless the housing authority is taking steps to persuade the landlord to allow the tenant to continue to occupy the accommodation whilst an alternative is found;
 - it is highly unlikely to be reasonable for the applicant to continue to occupy beyond the date on which the court has ordered them to leave the property and give possession to the landlord;
 - councils should not consider it reasonable for an applicant to remain in occupation up to the point at which the court issues a warrant or writ to enforce an order for possession;
 - councils should ensure that homeless families and vulnerable individuals who are owed an interim accommodation or main housing duty (see paragraphs 15, 17, and 18 below, for an explanation of these duties) are not evicted through the enforcement of an order for possession as a result of failure by the council to make suitable accommodation available to them.

Relief duty

14. If a council is satisfied an applicant is eligible for assistance and homeless then the council will owe the 'relief duty'. This requires the council to take reasonable steps to help to secure suitable accommodation for any eligible homeless person for at least six months. The relief duty usually lasts for 56 days.
15. After this period, the council should decide whether it owes the applicant the main housing duty. It will owe the **main housing duty** if it is satisfied the applicant is eligible for assistance, in priority need and not intentionally homeless.

Personalised housing plans (PHP)

16. Councils should work with applicants to identify practical and reasonable steps for the council and the applicant to take to help the applicant keep or secure suitable accommodation. These steps should be tailored to the household, and follow from the findings of the assessment, and must be provided to the applicant in writing as their personalised housing plan (PHP). (Housing Act 1996, section 189A and Homelessness Code of Guidance chapter 11)

Interim accommodation

17. If the council has reason to believe the applicant may be homeless, eligible for assistance and in priority need, it must provide **interim accommodation** until it has finished assessing the homelessness application if the applicant asks for it. “Reason to believe” is a low threshold. An example of priority need is those applicants who are vulnerable because they are elderly or as a result of a significant health issue.
18. When a council accepts a main housing duty, interim accommodation becomes **temporary accommodation**. In both cases, the accommodation should be suitable for the household. However, there is a statutory right to a review of the suitability of temporary accommodation, but no such right for interim accommodation.

Review rights

19. Homeless applicants may request a review within 21 days of being notified of certain decisions including a decision that they are not in priority need.

Protection of belongings

20. Where the council owes or has owed certain housing duties to an applicant, it must protect the applicant’s personal property if there is a risk it may be lost or damaged. (Housing Act 1996, section 211, Homelessness Code of Guidance chapter 20)

Overview: eviction from private rented sector (PRS) accommodation

21. Where a tenant has an assured shorthold tenancy, the landlord can issue a section 21 notice asking the tenant to leave. They do not have to give reasons, but the notice needs to be in a specific form and must satisfy various conditions.
22. In some cases, the landlord can evict without a court hearing – this is called “accelerated possession”. They do need to apply to the court and the tenant can challenge the application. The court will look at the papers and either:
 - issue a “possession order” – this sets a date at which the tenant has to leave; or
 - set a date for a possession hearing; or
 - dismiss the case.
23. If the tenant does not leave the property by the date given in the possession order, the landlord can apply for a “warrant for possession”. If the court issues a warrant, it will send the tenant an eviction notice with the date they must leave the property by. A bailiff can evict the tenant if they do not leave by that date.

What we have and have not investigated

24. Mr X complained to us in June 2023 about events from late 2021. We would usually only consider events 12 months before the complaint to us. In this case we decided to investigate the period from November 2021, when Mr X first sought help. We decided it was not reasonable for Mr X to complain earlier because he was dealing with being evicted from his home. In addition, the Council delayed responding to his complaint, which prevented him from complaining to us earlier. We were satisfied there would be sufficient evidence to make robust findings for the period from November 2021 and the potential to achieve a worthwhile outcome.

How we considered this report

25. We produced this report after examining relevant documents including documents provided by Mr Z (Mr X's representative) and documents provided by the Council in response to targeted enquiries of the Council.
26. We gave Mr X, Mr Z, and the Council a confidential draft of this report and considered their comments before completing this report.

What we found

What happened

27. Mr X lived with his family in a private rented sector (PRS) property, property 1. His tenancy was for a fixed term and after the term ended, the landlord served a section 21 notice. When the notice expired, the landlord started court action to obtain possession of the property.
28. Mr X first sought housing advice from a Council outreach worker on 30 November 2021. The Council's record indicated Mr X provided a copy of the section 21 notice, which said he should leave property 1 by 31 December 2021. The record does not indicate what advice, if any, the outreach worker gave.
29. Mr X did not leave property 1 as he had nowhere to go. Mr X's representative, Mr Z told us Mr X's landlord started accelerated possession proceedings on 19 January 2022 to evict him.
30. In June 2022, Mr X again approached the Council for housing assistance. He told his representative, Mr Z, that a Council officer had told him it would not help him, and he would have to find his own accommodation. There is no record of this advice in the housing file the Council provided.
31. Mr Z wrote to the Council on 23 June 2022. He said:
- Mr X was living with his wife and extended family at property 1;
 - Mr X was disabled and his daughter-in-law was his principal carer. He was therefore in priority need;
 - the Council had accepted Mr X onto its housing register, and had included Mr X's son and his daughter-in-law in his household for that application;
 - Mr X had a tenancy with a fixed term, which had expired and his landlord was now taking court action for possession. There was no suggestion of fault, so Mr X was not intentionally homeless;
 - Mr X was a British National, so he was eligible for housing assistance and had lived at property 1 since early 2020, so he had a local connection; and

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- based on the above information, the Council had “reason to believe” Mr X was homeless, eligible for assistance and in priority need. It should therefore make enquiries and provide interim accommodation whilst it did so.
32. Mr Z also explained Mr X was unable to read or write English and was not able to make an application online. Mr Z asked the Council to help Mr X complete the necessary forms and upload any documents needed.
 33. Council records show it carried out a homelessness assessment on 5 August 2022. It accepted a prevention duty on the basis it said Mr X was at risk of homelessness, and asked Mr X to provide various documents. It issued a PHP.
 34. Council records refer to the offer of a four bedroom private rented sector (PRS) property outside the Council’s area. The Council confirmed there was no record it had sent Mr X an email or letter about that property. We have not found any other reference to that property in the records we have seen.
 35. In September, Mr X told the Council he had received a **possession order**, which required him to leave property 1 by 28 September 2022 and to pay the landlord’s costs of £355 by the same date. On receipt of the possession order, the Council emailed Mr X to say:

“As advised, please you should not vacate the property on the 28/9/2022 or any other date if you have not secured alternative accommodation or the landlord had not obtained a warrant of possession.”
 36. Mr X remained in property 1. Mr Z wrote to the Council again on 29 September. He said that, as Mr X had no valid defence to the section 21 notice, it was unreasonable for him to remain in property 1. As a result of the Council’s verbal advice to remain in property 1 until a possession order was obtained, Mr X had been ordered to pay costs and was now being asked to complete further forms. He set out relevant sections of the Code and asked the Council to reimburse the legal costs incurred as a result of its poor advice. He also asked it to explain why it was asking Mr X to complete forms, despite knowing he could not read or write.
 37. The Council reminded Mr X to provide relevant documents for his homelessness application. Mr X said he provided them on 14 October, but the Council’s record for that date stated Mr X had not signed the PHP, nor completed a medical form, and had not provided the documents requested.
 38. On 19 October, the Council contacted Mr X by telephone about another PRS property. Its record of the call stated Mr X did not want to move outside its area and the officer explained the Council did not have any other accommodation available. Its email on the same day said this was a four bedroom property and it asked Mr X to let it know if he wanted to be referred for this.
 39. The next day, the Council met with Mr X and his son, Mr Y, who acted as translator. The Council explained the supply of temporary accommodation was very limited, particularly as Mr X wanted to stay in its area. Mr X confirmed he did not want to consider the PRS property suggested the day before. Mr X provided a completed vulnerability form, homelessness application and other documents, at which point the Council “registered” his homelessness application.
 40. On 24 October, the Council wrote to Mr X ending the prevention duty and accepting a relief duty. Its email advised Mr X to start looking for alternative PRS and to “make storage arrangements” for his possessions. It added “Once you have a bailiff’s warrant, please send it to me so I can discuss it with the accommodation panel and request authorisation for emergency accommodation”.

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41. On the same day, the officer referred the case to the Council's PRS team to look for a four bedroom property. In an email to Mr X to confirm this, they said the PRS team would only make one offer and if this was not accepted, the Council would discharge its housing duty. It said Mr X should bear this in mind, given he had already refused the offer of two PRS properties outside its area.
 42. Council records show it tried to contact Mr X's landlord in late October but was not able to speak to them. It asked Mr X to contact the landlord for their reasons for evicting him. Mr X told it the landlord never replied to his communications.
 43. The Council did not take any action between 4 November and 17 January 2023 when Mr X told it he would be **evicted by the bailiffs** on 22 February 2023. Mr X said he was struggling to find his own alternative accommodation. The Council said it didn't have properties so "it will be emergency B&B, or hostel, whatever they have on the day" and said Mr X could suspend the warrant of eviction by completing a form, which it provided a link for.
 44. Two days later, the Council advised Mr X it would seek permission from its temporary accommodation panel to place Mr X in temporary accommodation before the bailiffs' eviction date. The next day, it sent him links to property rental websites and benefits calculators to help him in finding his own accommodation.
 45. On 23 January, the Council's medical adviser considered the Council's file and stated they did not consider the specific medical issues meant Mr X was "significantly vulnerable as now defined". The record does not clarify what records the medical adviser saw when considering this, nor does it indicate what legal test was applied.
 46. On 25 January, the Council sent further decisions ending the prevention duty and accepting a relief duty. In a covering email, the officer said they would be discussing the case with senior managers the following day.
 47. On 26 January, the Council's temporary accommodation panel discussed the case, but did not authorise the arranging of accommodation. Its record stated this was because Mr X had refused two properties at the prevention stage, although it noted the Council had not sent official letters to Mr X to confirm those offers. The panel advised the officer to notify the Council's PRS team to try to find accommodation by the eviction date and provide a progress report to the panel in two weeks' time so emergency accommodation could be authorised.
 48. The same day, the Council emailed Mr X with details of a three bedroom PRS property outside its area. It said it would help with one month's rent in advance and a deposit. Again, the Council did not send a decision letter formally offering the property to Mr X and explaining why it was suitable for the household.
 49. The next day, the Council told Mr Z the case had gone to its temporary accommodation panel "and we will look to provide this as and when necessary".
 50. On 1 February 2023, the Council decided Mr X should be considered separately from the extended family he lived with, and that he was not in priority need. Its decision letter stated its reasons were that:
 - Mr X was able to undertake all day-to-day activities, such as making appointments with his GP, attending physio appointments, personal care and shopping, and making trips abroad. He was also not relying on a wheelchair to access services; and
 - his extended family were not dependent on him and would therefore have to make a separate application.

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51. Mr Y asked the Council to review its decisions. On 15 February, the reviewing officer overturned both decisions and said fresh decisions would be made.
52. On 21 February, the Council confirmed it would treat Mr X and his extended family as one household. Its panel agreed to arrange temporary accommodation. Mr X and his family moved to bed and breakfast (B&B) accommodation the following day. On 15 May, the Council moved the family to self-contained accommodation.
53. Mr Z told us that Mr X:
- had no knowledge of being offered the three properties referred to by the Council. Mr X said he refused a different property, because it was a third floor flat in a building with no lift and he could not manage the stairs; and
 - had not refused to consider accommodation outside the Council's area. When he was offered interim accommodation outside its area, he had accepted it.
54. In its initial response to our enquiries, the Council said:
- it accepted its advice on 15 September and 24 October about waiting for an eviction warrant contradicts the Code. However, it is important that applicants understand their rights under the Protection from Eviction Act 1977;
 - temporary accommodation that is immediately available to homeless households in its Borough is usually bed and breakfast accommodation due to acute supply issues since summer 2022, which means there is some logic in electing to remain in suitable self-contained accommodation whilst trying to source a settled alternative;
 - Mr X had turned down offers of alternative accommodation prior to the eviction warrant being executed. Whilst it understood his preference to remain in the Borough, this is often not viable for reasons of supply and cost. Further, it remains likely the Council will discharge its homelessness duty by offering suitable PRS accommodation, which may be out of Borough;
 - the decision to treat the family as two separate households on 1 February 2023 was an error, which was quickly rectified on review, which is the purpose of the review process; and
 - it also accepted it had not yet made a main housing duty decision, which it said was due to staff absences during 2023 and difficulty in recruiting cover, at a time when PRS evictions had spiked.
55. The Council proposed the following to remedy the injustice caused:
- an apology for not offering interim accommodation before February 2023 and a payment of £200 to Mr X to recognise the injustice caused;
 - a reminder to relevant officers about the contents of sections 6.35 to 6.38 of the Code. It would instruct officers to record when applicants have elected to assert their legal right and remain in their accommodation until a warrant is issued but otherwise to offer interim accommodation when a valid section 21 notice has been served.

Complaints handling

56. Mr Z formally complained, on behalf of Mr X, in March 2023. The Council acknowledged this and said it would respond by 30 March, which was 20 working days in line with its complaints process. On 28 April, it informed Mr Z there would be a delay in responding. It responded at stage 1 on 5 June. It said:

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- it had made robust enquiries and set out the reasons for its decision Mr X was not in priority need in its letter dated 1 February;
 - not all section 21 notices are enforced and councils are required to work with landlords to prevent homelessness. Tenants are therefore advised not to leave in case their homelessness can be prevented;
 - it was not aware at the time that Mr X could not read or write. It said Mr X had previously completed a housing register application, which he signed himself, and had communicated with it by email; and
 - Mr X's family were now in bed and breakfast accommodation and the Council would contact them when it had identified a suitable property for them.
57. Mr Z was unhappy with the response and asked the Council to consider the complaint at stage 2 of its process on 8 June. The Council responded on 4 August 2023. In its response, it:
- apologised for the delay in responding, which was due to staffing shortages due to unavoidable circumstances;
 - explained it used medical advisers to provide medical expertise on health-related issues and the impact they may have on an applicant's vulnerability and housing needs;
 - said "it was the Medical Team which made the determination that Mr [X]'s condition did not warrant him being awarded medical priority. The [housing officer] reported what the expert in the field had determined"; and
 - Mr X had delayed providing documents requested by two months and was offered suitable alternative properties on three occasions, which he refused.
58. At the time of preparing a draft of this report, the Council had not decided whether it owed Mr X a main housing duty. We have not seen evidence it has done so since.

Analysis and findings

Initial approach

59. Mr X approached the Council for help in November 2021 and provided a section 21 notice. The Council should have checked whether the notice was valid, and, if so, contacted the landlord to explore whether his homelessness could be prevented by an extension to the tenancy. The failure to take those steps was fault. As a result, the Council did not register a homelessness application for Mr X in 2021.
60. On balance, we find the section 21 notice was valid as the landlord proceeded to eviction based on it. Further, on balance, the Council would not have been able to prevent Mr X's homelessness since the landlord wanted the property back and started court action in mid-January 2022. On balance, if it had properly considered the matter, it would have decided it owed a relief duty by the end of January 2022. Its failure to act, delayed any assistance to Mr X, and meant he incurred £355 legal costs as he was ordered to pay the landlord's costs for the application. He would not have had to pay if the Council had not delayed in helping him because the landlord would not have needed to continue with the legal action if Mr X had left the property.

Homelessness application – June 2022 onwards

61. Mr X approached the Council again in June and Mr Z also wrote to the Council on his behalf. There is no record of the oral advice the Council gave Mr X. However, the letter Mr Z sent was sufficient for the Council to have reason to believe Mr X may have been eligible for housing assistance, was homeless, and in priority need. It therefore had a duty to provide interim accommodation. It did not do so, which was fault. It also had a duty to make enquiries, which it delayed doing, which was further fault.
62. The Council carried out a homelessness assessment on 5 August 2022, following which it accepted a prevention duty and issued a PHP. This was fault. It should have accepted a relief duty on the grounds it was not reasonable for him to continue to occupy property 1. And it should have provided interim accommodation.
63. A relief duty would usually last 56 days, which would have been 30 September 2022, but Mr X did not provide all the documents the Council asked for until 20 October. At that point the council should have decided whether it owed a main housing duty.
64. On 25 October the Council wrote to Mr X ending the prevention duty and accepting a relief duty. It did not take any action between 4 November 2022 and 17 January 2023, which was fault.
65. On 17 January, it told Mr X to arrange storage for his belongings. It did not enquire about whether Mr X was able to protect his belongings or offer any assistance with storage, which was fault. By this point, Mr X had been informed he would be evicted on 22 February, but the Council still failed to arrange interim accommodation. In the event Mr X was able to arrange storage himself.
66. On 25 January 2023, the Council wrote again to Mr X ending the prevention duty and accepting the relief duty. This was a repeat of a letter it sent three months earlier and there was no basis for doing so. This is evidence of a general lack of care and attention to the case and was further fault.
67. On 26 January, the Council's panel decided not to arrange interim accommodation on the grounds Mr X had refused two offers of PRS accommodation during the prevention stage, despite noting it had not formally written to him about these. From our review of the records, the Council identified a possible PRS property in August 2022, but there is no evidence it told Mr X about this. It sent Mr X details of a PRS property on 24 October 2022. There was no formal offer of a property, no explanation of why it was suitable for the household and no warning about the consequences of not accepting an offer of suitable accommodation. The Council was at fault for refusing to provide interim accommodation on the basis it did.
68. The Council accepts it was at fault for deciding on 1 February that the family should be treated as two separate households, which was rectified following the review.
69. On balance, it was also at fault for deciding Mr X was not in priority need. This was because:
 - the Council had not made proper enquiries, for example, it had not made enquiries of Mr X's GP;
 - information it relied on in its decision letter was incorrect, for example, it said he could manage to attend appointments and undertake his own personal care

and shopping. Mr X had explained he could not do those things and needed to be helped by his family to do them. Its letter said he was travelling between the UK and two other countries, which was also incorrect. Mr X had travelled to another country in 2013 and again in 2019 for holidays before he became sick in 2021;

- it did not apply the proper legal test for deciding whether Mr X was vulnerable. It should have considered whether he was more vulnerable than an ordinary person would be if they became homeless;
- it did not consider the Equality Act when making its decision. Mr X had a disability for which he was receiving a Personal Independence Payment (PIP) and his wife was receiving carer's allowance. The Council had documents confirming these benefits; and
- there were children in the household.

70. At the time of writing, the Council has not made a main housing duty decision, a year after the review decision, which is further fault.

Supporting Mr X with forms

71. We have not found fault with the Council for failing to help Mr X to complete forms. Council records show that, whilst it was aware he needed an interpreter and was not able to read or write, family members who lived with him were helping him with those things.

Complaints handling

72. The Council failed to respond to the complaint at either stage within the timescales in its published policy. It should have responded within 20 working days. At stage 1, it should have responded by 30 March but did not do so until 5 June, which was 23 working days later than it should have been. At stage 2, it should have responded by 8 July, but did not do so until 4 August, which was 19 working days later than it should have been. The delay was fault.
73. The Council was also at fault for saying in its complaint response that its medical adviser had decided Mr X was not vulnerable and the housing officer simply reported what they had determined. It is for the Council to make the decision about medical priority and whether an applicant is vulnerable, not the medical adviser. In the event, this did not cause Mr X a significant injustice as the decision on 1 February was overturned at review and he has been housed throughout.

Injustice caused by the Council's failings

74. Mr X and his family were caused months of uncertainty and worry due to the Council's delay in taking action to assist them and, in particular, its failure to arrange interim accommodation when it should have done, which was by January 2022 at the latest. The family, which includes a disabled, older man and children, also had to go through the experience of being evicted by bailiffs, which could have been avoided but for the Council's fault. They also had to arrange for the storage of their belongings without any assistance from the Council. Mr X incurred avoidable court costs and was put to avoidable time and trouble pursuing the Council. The delay in making a main housing duty decision means Mr X does not have a statutory right of review of the suitability of his accommodation, and this may have affected his priority on the housing register.

Recommendations

75. 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 and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended)
76. In addition to the requirements above the Council has agreed to take the following action within three months of the date of this report:
- apologise to Mr X for the injustice caused by the failings identified;
 - pay him £1,000 to remedy the uncertainty, worry and time and trouble caused;
 - pay him a further £355 to remedy the avoidable court costs he incurred;
 - decide whether it owes him a main housing duty and write to him with that decision;
 - review his priority on its housing register in light of its main housing duty decision, and back-date any additional priority to at least 25 October 2022, by which point the Council should have made a main housing duty decision;
 - share a summary of the learning from this decision, as well as the full report, with all officers who deal with homelessness applications to ensure lessons are learned from what went wrong in this case;
 - remind relevant officers about the contents of paragraphs 6.35 to 6.38 of the Code. The Council has said it will instruct officers to record when applicants have elected to assert their legal right and remain in their accommodation until a warrant is issued but otherwise to offer interim accommodation when a valid section 21 notice has been served;
 - remind relevant officers that the Council should make the decision on whether an applicant is vulnerable and on whether they are eligible for medical priority, and not its medical advisers; and
 - provide evidence of the action it is taking to procure interim accommodation in its area, including properties for families.

Decision

77. We have completed our investigation into this complaint. We found fault by the Council causing injustice. We have recommended action to remedy that injustice and prevent recurrence of the fault.