

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

**Investigation into a complaint against  
London Borough of Tower Hamlets  
(reference number: 19 000 068)**

**11 November 2019**

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## The Ombudsman's role

For more than 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

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## Report summary

### Housing – Homelessness

Miss X complained about how the Council handled her homelessness application when she became threatened with homelessness in February 2019, and homeless in March 2019. She complained about Council officers' approach towards her and a lack of action to help her find somewhere to live. Miss X stayed in unsuitable, unfurnished interim accommodation while pregnant. This has affected her physical and mental health.

### Finding

Fault found causing injustice and recommendations made.

### Recommendations

We recommended the Council urgently considered options such as a temporary discretionary housing payment to make private rented accommodation affordable for Miss X until her baby is born. The Council agreed to this recommendation and took this step before we issued our final report.

The Council has cited severe staff shortages as responsible for fault. It has agreed to consider service resources, and changes needed to enable its officers to work in line with the law. It will report to us within three months of the date of this report explaining its findings and plan.

The Council has agreed to send a written apology to Miss X and pay her £1,000. This is to recognise the time she spent living in unsuitable accommodation, the significant stress, uncertainty and anxiety caused to her and the extra time and trouble she went to. The injustice to Miss X is particularly significant, given the impact on her physical and mental health. It will pay this within three months of the date of this report. The Council should not prescribe how Miss X uses this, for example expecting her to use it in place of financial help it may otherwise give her in future.

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*)

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## The complaint

1. Miss X complained about how the Council dealt with her after she told it she was threatened with homelessness in February 2019. In particular:
  - the Council's housing officers were rude, unhelpful and unsympathetic;
  - the Council unreasonably decided she did not have a priority need and refused to review its decision;
  - the Council referred her to an assessment centre which was not suitable for her needs. It then housed her in unsuitable temporary accommodation without giving her sufficient information beforehand; and
  - the Council did not do enough to help her find accommodation.
2. Miss X, who is pregnant, said this led to her having to sleep on a hard floor in unfurnished temporary accommodation. She was too far away from her support network and the hospital she needed to attend for appointments. The circumstances affected Miss X's health, and she said she had panic attacks and blackouts.

## 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. When considering complaints, if there is a conflict of evidence, 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.

### Councils' duties towards homeless people

5. The Council has duties towards homeless people under the Housing Act 1996 and the Homelessness Reduction Act 2017. The Homelessness Code of Guidance for Local Authorities 2018 is the statutory guidance which councils must have regard to when carrying out their functions in relation to homeless people. We reference the specific sections of the relevant legislation and guidance throughout this report, along with relevant court cases which have set a precedent for councils to follow.

## How we considered this complaint

6. We produced this report after examining relevant documents and interviewing the complainant.
7. We gave the complainant and the Council a confidential draft of this report and invited their comments. We took the comments received into account before the report was finalised.

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## What we found

### **The Council did not take sufficient steps to prevent Miss X's homelessness**

8. If a council is satisfied an applicant is eligible and homeless or threatened with homelessness, it must assess their needs and draw up a 'personalised housing plan' (PHP). This lists steps to prevent or relieve the person's homelessness. (*Housing Act 1996, section 189A, as inserted by s.3(1), Homelessness Reduction Act 2017*)
9. Where a council is satisfied an applicant is threatened with homelessness and eligible, it must take reasonable steps to help ensure the person continues to have accommodation available to them. This is called the prevention duty. (*Housing Act 1996, section 195, as substituted by s.4(2) Homelessness Reduction Act 2017*)
10. Miss X visited the Council's offices at the beginning of February 2019 after her father gave her notice to leave the family home. The Council negotiated a later date with Miss X's father. The Council arranged to meet Miss X later in February to look at ways to prevent her homelessness.
11. At the appointment later in February, the Council recorded the steps it would take to prevent Miss X's homelessness in Miss X's PHP. The Council agreed:
  - it would meet with Miss X in March to decide on steps to *relieve* her homelessness (steps the Council and Miss X would take after she became homeless);
  - it would visit Miss X at home; and
  - it may refer Miss X to a homelessness support organisation.
12. 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. Miss X had the right to appeal the steps the Council agreed to take, and then to appeal to court. It would have been reasonable for her to do so if she felt the steps the Council agreed to take were not sufficient. We cannot therefore comment on the suitability of those steps, only whether the Council subsequently took them. (*Local Government Act 1974, section 26(6)(c), as amended*)
13. Miss X made a complaint in early March and said the officer had not made the further appointment for her or carried out a home visit. Two weeks later, the Council responded to Miss X's complaint and said it would not visit her at home, apologising if its officer had told her it would. It did not comment on the further appointment not being arranged.
14. The Council did not take the steps it said it would. It did not take sufficient action to *prevent* Miss X's homelessness. This is fault. It mediated with Miss X's father to *delay* her becoming homeless. However, this is the only action the Council took towards its duty to prevent Miss X's homelessness.
15. The Council says it referred Miss X to a hostel as part of its prevention duty. However, it did so on the day she became homeless, when a different duty was therefore owed (the *relief* duty). Because Miss X was not owed the prevention duty once she was homeless, we have discussed the hostel referral later in this report.

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16. Miss X became homeless in March 2019, sooner than the Council had negotiated and only three weeks after it had issued her PHP. There was not sufficient time to prevent Miss X becoming homeless, in part because the Council took 10 working days from Miss X presenting as at risk of homelessness to assess her and issue her PHP. This delay was also fault.
  17. Miss X suffered stress and anxiety due to the Council's failures. While the Council's failures did not on their own cause Miss X to become homeless, there were then further failures by the Council once she was homeless, which we will explain further in this report.

### **The Council delayed providing interim accommodation to Miss X**

18. If a council has reason to believe an applicant may be eligible, homeless and in 'priority need', it has a duty to provide interim accommodation. A pregnant woman has a priority need for accommodation. (*Housing Act 1996, section 188, Homelessness Code of Guidance, section 8.3(a)*)
19. In mid-May 2019, when Miss X was homeless and sofa-surfing, she told the Council she was pregnant. The Council had a duty to provide interim accommodation as soon as it had *reason to believe* Miss X *may be* homeless, eligible and in priority need. The Council is of the view it was reasonable to expect Miss X to cooperate with it and provide evidence before providing interim accommodation. However, the threshold is low; Miss X telling the Council she was pregnant was enough to trigger the duty to provide interim accommodation. Therefore, the Council should have provided interim accommodation and then asked for evidence. The Council did not provide interim accommodation and instead told Miss X to come back with proof of her pregnancy. This was fault.
20. A week later, Miss X provided her 12-week scan as evidence. The Council then provided interim accommodation, which was not furnished, in another London borough the following day.
21. The Council applied too high a threshold, and this led to an eight-day delay in it providing Miss X with interim accommodation, during which she continued sofa-surfing. This caused further anxiety and stress for Miss X, and she went to extra time and trouble in returning to the Council the next week to provide evidence when the Council did not need that evidence to accommodate her.

### **The Council did not consider suitability of interim accommodation**

22. Any accommodation that is provided, obtained or secured by a council must be suitable for the applicant. This applies whether this is under a duty or a discretionary power, and also applies to interim accommodation. (*Housing Act 1996, section 206, Homelessness Code of Guidance 2018, section 17.2*)
23. Councils have a legal duty to place applicants in their own area so far as reasonably practicable. (*Housing Act 1996, section 208, Homelessness Code of Guidance, sections 17.47-17.54*)
24. London Borough of Tower Hamlets' staff guidance stresses officers must show they have considered certain factors and must clearly record reasons for offering a particular property to a particular household. The courts have held that 'suitability' means consideration of an individual applicant's needs. (*R v Newham LBC ex parte Ojuri [No 3] (1999) 31 HLR 631, QBD*)
25. The Supreme Court has accepted that councils are entitled to take account of the resources available to them in their area, but the general shortage of available accommodation is not sufficient reason for failing to comply with their obligations

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when making an offer of accommodation. Councils should record how decisions to place an applicant out of area have been reached, with reference to the household's needs. For properties outside its area, the Council's guidance says officers must consider the extent of disruption to specialist medical care, whether this can be transferred to a local hospital and how disruptive such a transfer would be to the individual. (*Homelessness Code of Guidance 2018, section 17.62, Nzolameso v City of Westminster [2015] UKSC 22*)

26. On the day the Council offered Miss X interim accommodation in May 2019, it simply recorded "*Contents of the homeless application taken into account*", and "*This was the only suitable property available*". The form it completed prompted the Council to consider how Miss X's medical needs impacted suitability. The Council wrote "*anxiety*" but did not go into further detail.
27. The Council knew Miss X had significant anxiety and she told it that anxiety meant friends and family had to be present to support her. It knew she had physical health conditions which she had told the Council were worsening, and she was pregnant. The Council did not record how it took any information it held about Miss X into account. The Council disputes this, pointing to a file note as evidence of how it took Miss X's circumstances into account. The file note it refers to states Miss X was not working and was pregnant, and says her medications were checked and the contents of the homelessness application were taken into account. This does not provide evidence of *how* any of those factors influenced the reasons the Council offered Miss X a particular property, and does not meet the requirements of the Council's staff guidance.
28. The Council did not record any consideration of whether transferring hospitals for maternity care would be disruptive to Miss X. It did not record any consideration of whether unfurnished accommodation, over an hour away from its area, was suitable for her. Given that Miss X had not lived alone before becoming homeless, it should have been clear to the Council she would probably not have any furniture she could bring to the accommodation.
29. The Council says when making a decision about allocating accommodation, its officers use all information about the applicant's circumstances on their file. An explanation of what happened that is given after the events, either in a complaint response or during our investigations, may provide relevant evidence. However, it would not necessarily prove the Council acted without fault. This is because we need evidence that shows the Council exercised its discretion properly at the time it made its decision. Officers must keep contemporaneous case notes. In any event, while the Council has said officers *would* have considered the relevant information, it has not provided a satisfactory explanation, even retrospectively, for providing Miss X with this unfurnished accommodation and deciding it was suitable for her.
30. The Council says it considers offers of unfurnished accommodation out of its area to be suitable accommodation. We recognise there is a severe shortage of accommodation in London boroughs, and it is often the case that applicants will be housed out of area. While councils may have a general position, they must consider the individual circumstances of applicants and allow for exceptional circumstances. Any such general policy must allow the Council to use discretion, and the Council has a duty to make sure interim accommodation is suitable for the applicant. It is not sufficient for the Council to say it is standard policy to move applicants to a certain type of accommodation.

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31. On the advice of the Council, Miss X accepted the interim accommodation then wrote asking the Council to review its suitability. Miss X provided further detail about her needs within a week of moving into this accommodation, explaining she had panic attacks on public transport and needed family and friends with her when travelling in unfamiliar places or for long distances. She explained she needed to be near to her own GP and hospital.
  32. Miss X also told the Council she had suffered verbal harassment and racist comments in the area she was accommodated in. Councils must take into account any risk of violence for the applicant when deciding whether accommodation is appropriate. The accommodation they offer should not place the applicant, or any member of the household, at risk of further violence.  
*(Homelessness Code of Guidance 2018, paragraphs 17.6 and 21.37)*
  33. The Council told Miss X she had no right to a review. Miss X would not have a statutory right of review, but the law makes clear any accommodation provided must be suitable. The Council should have considered her concerns and documented its decision. The Council told Miss X medical facilities were available in the area she had been accommodated in but did not record any consideration of how moving hospitals would impact her to justify this statement.
  34. The Council says there is no evidence Miss X suffered verbal harassment and racist comments. Miss X told the Council this was the case, and there is no information that conflicts her assertion. Nothing in law requires an applicant to provide proof of violence, and councils' duties in such cases are to consider the likelihood of violence being carried out. The Council did not consider Miss X's concerns and whether she was at risk. Miss X continued to tell the Council the accommodation was not suitable. The Council missed several further opportunities to properly consider Miss X's accommodation needs. This is further fault.
  35. The Council points to information it received from its medical assessor and Miss X's GP, and retrospectively explained to us that information led it to believe Miss X's anxiety was not out of the ordinary for someone facing homelessness or to an extent that meant she could not travel or live outside its area. It did not record this at the time, which we would have expected it to, considering Miss X told it repeatedly the accommodation was not suitable. There is no contemporaneous evidence that contradicts Miss X's view.
  36. As a result of the Council's lack of records showing it considered Miss X's individual needs, we cannot say it properly considered the suitability of the unfurnished interim accommodation it provided to Miss X. This was fault. In the absence of a proper decision-making process, we can decide what would have happened if a decision was made properly.
  37. On the balance of probabilities, had the Council properly considered suitability, it is likely it would have decided the interim accommodation was not suitable. Miss X says she cannot travel in unfamiliar places without support and the Council has not provided any evidence that contradicts Miss X's assertion as it made no inquiries into this. It told us its officers have observed her as alone when visiting its offices, however the Council's offices are in a *familiar* place so this is not relevant. Miss X's friends and family, who provide support when she has panic attacks, live over an hour away from the accommodation, in the Council's area.



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38. We have seen evidence from Miss X's GP she has significant anxiety. It could be disruptive for her to move hospitals for maternity care due to her severe anxiety about unfamiliarity, but the Council did not consider whether she could change medical facilities. Miss X says she continued looking for a job in the Council's area, as her PHP said she should. However, she says when she received a job offer she could not accept it due to the distance. The accommodation was not furnished, which is of particular concern given Miss X is pregnant. Miss X slept on a hard floor, although this was not for the whole length of her stay as she received financial support from the Department for Work and Pensions to buy a bed a month after moving there. Miss X also told us about the lack of amenities nearby, so she also struggled to access shops. The Council's form prompted it to consider this on the day she moved to the temporary accommodation, but this was left blank.
39. We would expect the Council to have properly considered Miss X's needs and sought appropriate accommodation as soon as possible. It could have provided emergency accommodation in a bed and breakfast in its area as an alternative, potentially less unsuitable short-term option until suitable accommodation was found. It should have continued looking for suitable accommodation and moved Miss X when something else became available. The Council says the accommodation was suitable, but it did not explain why, and has not provided any substantive evidence that contradicted the information we received from Miss X.
40. Miss X moved into private rented accommodation at the end of August 2019. Miss X therefore spent three months in unsuitable temporary accommodation, and she continually contacted the Council about it. This had a significant impact on her health and wellbeing. She inevitably incurred additional costs, as she had to travel to the Council's area and back regularly with the help of others.

**The Council did not take sufficient steps to relieve Miss X's homelessness**

41. Councils must keep the assessment and PHP under review. If any new information comes to light, or circumstances change, this should trigger a review. (*Housing Act 1996, section 189A, as inserted by s.3(1), Homelessness Reduction Act 2017*)
42. Councils must give written notifications of decisions, explaining the reasoning if decisions are not in the person's favour and explaining their review rights. (*Housing Act 1996, section 184*)
43. The relief duty applied from the date Miss X became homeless in March 2019. The Council should have reviewed her assessment and PHP. It did not do so, and this is fault. The Council says its failure to review Miss X's PHP did not cause her a detriment. An updated PHP would have set out steps the Council and Miss X would take specifically to *relieve* her homelessness. These steps would have differed significantly from any steps they agreed to *prevent* her becoming homeless, as the circumstances had changed. We are satisfied the lack of review therefore caused Miss X a significant injustice.
44. The Council says there is no prescribed format for PHPs but it would be "good practice" for agreed actions to be recorded in writing. We are concerned the Council has misunderstood the requirements in the law and guidance. These make clear councils must record practical and reasonable steps for both parties to take, to help the applicant retain or secure suitable accommodation. These must be given to the applicant in writing, as their PHP. (*Homelessness Reduction Act 2017, section 189A, Homelessness Code of Guidance for Local Authorities, section 11.18*)

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45. Where a council is satisfied that an applicant is already homeless and eligible, it must take 'reasonable steps' to help ensure the applicant secures accommodation which is available for at least six months. This is called the relief duty. (*Housing Act 1996, section 189B, as substituted by s.4(2) Homelessness Reduction Act 2017*)
  46. As the Council did not give Miss X a new PHP, she was denied the new right to appeal the steps - or in this case, the absence of steps – which would have been agreed in an updated PHP. This means we can investigate all action the Council decided to take from the date Miss X became homeless.
  47. On the day Miss X had to leave the family home in March 2019, the Council arranged emergency accommodation at an assessment centre. This step could potentially have relieved Miss X's homelessness, as it was a short-term placement with a plan for transition into longer-term accommodation. However, Miss X did not accept the offer of a place. The Council indicates it believes that accommodation would have provided the support Miss X needed and was suitable. However, the Council did not end its relief duty. This option was open to it if it was satisfied the offer was suitable for Miss X and there was a reasonable prospect of her being accommodated for at least six months. As it did not write to Miss X to end its relief duty based on her refusing a suitable offer of accommodation, its duty to take reasonable steps to help Miss X secure accommodation continued.
  48. After Miss X moved into interim accommodation in May 2019, she asked the Council to put her on a higher band for its housing register, which she had joined before becoming homeless. This is a step councils can take towards the relief duty. The Council began this process in July 2019 after we asked whether it had made this change. It explained to Miss X it may take several years to offer her permanent accommodation through its housing register. Even though homeless people receive higher priority, on balance, we cannot say Miss X missed out on an offer of social housing as we recognise the severe social housing shortage in the area. The delay in the Council updating Miss X's housing register application was fault but did not cause her a significant injustice for this reason.
  49. The guidance lists examples of 'reasonable steps' councils can take to prevent or relieve homelessness. The list includes providing support, "*whether financial or otherwise*" to assist an applicant in finding private rented accommodation. (*Homelessness Code of Guidance, section 11.23*)
  50. Miss X found several private rented properties after becoming homeless and provided the details of each to the Council. We have seen evidence from July 2019 of some work by the Council to help Miss X with obtaining private rented accommodation. It requested various documents from an agent but did not receive what it asked for. It discussed affordability with Miss X via email, advising several properties were not affordable for Miss X. However, overall, we have not seen significant evidence of the Council providing support to help Miss X obtain private rented accommodation, which we explain further below.
  51. The Council told us and Miss X it could not consider providing financial support for her to obtain private rented accommodation until it made a decision about whether Miss X was in priority need and owed the main housing duty. We are concerned the Council has confused its duties. The relief duty applies to applicants whether or not they are in priority need, so Miss X's priority need is not relevant to the relief duty. We clarified this to the Council.

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52. The Council has the power to provide help in the way of advance rent and deposits. This is a step councils can take towards the relief duty. The Council can take these steps where private rented accommodation is considered suitable (including affordable) and will be available for at least six months, enabling it to bring its relief duty to an end. The Council has explained this to Miss X. It could have been clearer in its explanations via email. However, it provided several explanations that, when read together, clarify overall what it required of private rented accommodation before it could help Miss X with rent in advance or a deposit. The explanations, taken together, do not amount to fault.
53. The Council told Miss X she could not afford some properties, but it did not help her to find alternative options which it considered suitable and affordable. This is a step councils can take towards the relief duty. The Council told Miss X she could only afford shared housing and could not get a one-bed flat until her baby is born. However, before we issued our draft report, it had not considered options such as a temporary discretionary housing payment to make a one-bed flat affordable in the interim. This is also a step councils can take towards the relief duty. Miss X should receive more housing benefit when she has had her baby, and councils might use their discretion in such circumstances to pay a shortfall in rent temporarily to bring the relief duty to an end.
54. The Council did not take sufficient action to help Miss X find accommodation to relieve her homelessness. This is fault. The above are examples of steps councils can take to relieve homelessness. However, various options are available and the above does not provide an exhaustive list, nor is it a list of steps councils must take in every case. After we became involved, the Council considered the financial support it could provide to Miss X to end its relief duty. This did not progress significantly during our involvement. Miss X negotiated with landlords to reduce the cost of rent, but the Council's delay in properly considering what financial support it could provide to her led to her missing at least two offers of private rented accommodation.
55. Miss X moved into private rented accommodation in the Council's area at the end of August 2019. She found the accommodation herself and borrowed money from a friend to pay the deposit and rent in advance. She told the Council she could not afford the accommodation, as it had not yet agreed to provide financial support to help her afford the rent. Miss X says she was under the impression before moving that she was eligible for benefits for a one-bed flat. Miss X moved into accommodation she could not afford. We are satisfied the Council made it clear to her that she should not move into unaffordable accommodation, and that until her baby was born she was only eligible for benefits for shared accommodation.
56. However, the Council has now considered what financial help it can provide Miss X and it has agreed to help with the shortfall in her rent, through a discretionary housing payment, until January 2020. It also refunded the deposit she had paid. It has ended its relief duty by issuing a written notification to Miss X.

**The Council delayed making inquiries into Miss X's priority need**

57. Councils make inquiries to decide what duty they owe homeless applicants. They make decisions on issues like whether the person has a priority need and is not homeless intentionally, to decide whether they owe the applicant the 'main housing duty'. This is the duty to secure suitable accommodation for the applicant. (*Housing Act 1996, section 193*)

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58. The burden of proof rests with councils. The London Borough of Tower Hamlets' staff guidance says where an applicant cannot provide documentary evidence, officers should follow up with inquiries. Normal confirmation of pregnancy, for example, a letter from a medical professional, such as a midwife, should be adequate evidence of pregnancy. (*Bellouti v Wandsworth LBC [2005] EWCA Civ 602; Hawa Abdullah Ali v Newham LBC, [2000] Bow CC, Legal Action November 2000; R v Woodspring DC ex parte Walters (1984) 16 HLR 73 QBD, Homelessness Code of Guidance, section 8.5*)
59. The Council had not made a decision on whether it owed Miss X the main housing duty by the time it ended its relief duty in October 2019, despite her telling it she was pregnant in May 2019. It no longer needs to make a decision about the main housing duty, as Miss X's homelessness has been relieved. However, we had concerns about the Council's processes and its delay in making inquiries. It told Miss X she needed to provide her antenatal book as evidence of her priority need. Miss X refused to provide this as it included confidential and irrelevant information. She had shown the Council a copy of her 12-and 20-week scans.
60. Being pregnant makes a person in priority need. The burden of proof rests with the Council. It asked Miss X to provide additional documentation as part of its inquiries, putting the burden of proof on Miss X. It made inquiries to Miss X's GP after we raised concerns. This was two months after Miss X told it she was pregnant, which was a significant delay.
61. The delay in the Council making inquiries to help it decide whether it owed Miss X the full housing duty was fault. Miss X was caused unnecessary uncertainty and anxiety about her future, and that of her child, due to the Council's delay in making appropriate inquiries. She went to unnecessary time and trouble chasing the Council and reminding it of its duty to make inquiries.

### **Other issues where we have not found fault or significant injustice**

#### **The Council withdrawing its decision Miss X was not in priority need**

62. 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. The Council withdrew its decision of March 2019 when Miss X challenged it, rather than allowing Miss X her right of appeal. Therefore, it was not reasonable to expect Miss X to go to court about this decision, and we have investigated it. (*Local Government Act 1974, section 26(6)(c), as amended*)
63. There was no legal basis for the Council withdrawing its decision. Usually councils cannot revisit a homelessness decision once it is made. (*Porteus .v. West Dorset DC*).
64. The Council withdrew its decision because it identified it had not properly considered Miss X's medical needs before its decision of March 2019. The Council then put the burden of proof on Miss X before later writing to her GP. The Council was at fault. However, these faults did not cause Miss X a significant injustice, as she was not in priority need after a proper assessment. In any event, her circumstances changed in May 2019 when she told the Council she was pregnant.

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### **The suitability of accommodation the Council provided in March 2019**

65. In March 2019, on the day Miss X became homeless, the Council arranged emergency accommodation at an assessment centre. Miss X did not stay, and the Council did not provide alternative accommodation.
66. The Council did not have to provide interim accommodation for Miss X in March 2019, because at the time she was not in priority need. It helped her to gain a place at the assessment centre, which was a step towards the relief duty, but she decided not to stay. There is insufficient evidence for us to consider the Council's view of suitability of that accommodation. Council officers discussed Miss X's reasons for not having accepted the offer, indicating they did not agree, but the Council did not carry out an assessment of suitability, fully considering the relevant factors. The Council did not challenge Miss X's view the offer was not suitable for her, and crucially it did not end its relief duty when she refused the offer. As the Council did not end its relief duty, the lack of a proper suitability assessment did not cause Miss X any significant injustice. Miss X spent some time sofa-surfing following her refusal of this offer. However, before she told the Council she was pregnant, this time Miss X spent sofa-surfing was not due to fault by the Council because it did not have a duty to provide her with interim accommodation.

### **Officers' attitudes and communication**

67. Miss X alleged the Council's officer was rude, unhelpful and unsympathetic towards her, in writing and in person. Miss X also complained the Council's manager communicated with her in a harsh tone. The written evidence is not sufficient for us to reach a finding of fault in this respect. We cannot know what was said in person or the tone used. The Council was entitled to ask Miss X some personal, and possibly uncomfortable, questions when determining her homelessness application and while Miss X felt some of these were inappropriate and irrelevant, this does not mean the Council was at fault.
68. We also found the Council did not issue a letter when its prevention duty ended and its relief duty began, which it should have. However, Miss X was not caused a significant injustice, as we are satisfied she would not have wanted to challenge the Council's decision to end the prevention duty.

### **Conclusions**

69. In summary, the Council was at fault when it:
- did not take sufficient action to prevent Miss X's homelessness;
  - delayed assessing her and issuing her PHP;
  - did not review the assessment and PHP when circumstances changed;
  - applied too high a threshold when deciding whether to provide her with interim accommodation when she became pregnant in May 2019;
  - did not properly consider the suitability of the interim accommodation it then provided;
  - did not review the suitability of that accommodation when Miss X asked it to;
  - did not take sufficient action to relieve Miss X's homelessness; and
  - delayed making inquiries to consider whether it owed Miss X the full housing duty.

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70. The Council's faults led to:
- significant stress, uncertainty and anxiety for Miss X;
  - an eight-day delay in it providing Miss X with interim accommodation, while she continued sofa-surfing;
  - extra unnecessary time and trouble for Miss X in providing evidence and reminding it of its duties;
  - three months living in unsuitable temporary accommodation, and the costs linked to this;
  - worsening of Miss X's health and wellbeing; and
  - Miss X missing at least two offers of private rented accommodation.
71. The Council says it will accept our decision and seek to learn from the errors we have highlighted. Since our draft report, it has also agreed to pay Miss X a discretionary housing payment to cover the shortfall in her rent until January 2020, and to refund the deposit of £1,300 she paid for her private rented accommodation. We welcome the positive action the Council has taken, and says it will take.
72. We are issuing this report for two reasons. There was significant fault by the Council causing significant injustice to Miss X. Homelessness is also a significant topical issue, following a change in the relevant law. For this reason, we want to bring attention to examples of particularly poor practice. However, alongside this we also wish to highlight the ways in which councils can remedy the injustice these faults can cause homeless people.

## **Recommendations**

73. We recommended the Council urgently considered options such as a temporary discretionary housing payment to make private rented accommodation affordable for Miss X until her baby is born. The Council agreed to this recommendation and took this step before we issued our final report.
74. The Council has cited severe staff shortages as responsible for fault. It has agreed to consider service resources, and changes needed to enable its officers to work in line with the law. It will report to us within three months of the date of this report explaining its findings and plan.
75. The Council has agreed to send a written apology to Miss X and pay her £1,000. This is to recognise the time she spent living in unsuitable accommodation, the significant stress, uncertainty and anxiety caused to her and the extra time and trouble she went to. The injustice to Miss X is particularly significant, given the impact on her physical and mental health. It will pay this within three months of the date of this report. The Council should not prescribe how Miss X uses this, for example expecting her to use it in place of financial help it may otherwise give her in future.
76. 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*)

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## **Decision**

77. There was fault by the Council which caused injustice to Miss X. The Council has agreed to take the action identified in the section titled "*Recommendations*" to remedy that injustice.