

REPORT TO:	GENERAL PURPOSES AND AUDIT COMMITTEE 18 July 2018
SUBJECT:	Local Government & Social Care Ombudsman
LEAD OFFICER:	Shifa Mustafa, Executive Director Place
CABINET MEMBER:	Cllr Alison Butler Cabinet Member for Homes & Gateway Services Deputy Leader
WARDS:	All
CORPORATE PRIORITY/POLICY CONTEXT/AMBITIOUS FOR CROYDON:	
FINANCIAL IMPACT: This case has resulted in a financial cost to the Council of £250 which has been funded from existing service budget.	

1. RECOMMENDATIONS

- 1.1. The Committee is asked to note the Council's response to the Local Government & Social Care Ombudsman report.

2. EXECUTIVE SUMMARY

- 2.1. A complaint came in to the Council from a service user which escalated to the Local Government & Social Care Ombudsman (LGSCO). After the investigation was completed, the LGSCO asked the Council to review the draft decisions and recommendations. Factual changes were made to the draft; the Council accepted the report with no disagreement to the recommendations that were advised by the LGSCO. The Council expressed the view that it accepts the investigation findings and recommendations and the service team has completed the recommendations ahead of the time scales given.

3. DETAIL OF YOUR REPORT

- 3.1. Findings from the Ombudsman

- 3.1.1. In April 2018 the LGSCO published a report finding fault causing injustice to the complainant – Mr X, around the Council's failure to consider all aspects of Mr X's Housing Register Review; specifically the request to be considered for a 2-bedroom accommodation due to his medical condition. The service involved

has taken the issues that have been identified by the LGSCO very seriously and implemented the recommendations as directed by the LGSCO. The service has taken action to ensure that lessons are learned from this case to ensure all Housing Register Reviews are carried out comprehensively.

3.1.2. The key findings and recommendations by the LGSCO are detailed in Appendix 1.

3.2. Actions taken by the Council

3.2.1. The actions the Council has taken are as follows:

- Apologised to Mr X for the undue distress caused by not considering his Housing Register Review in a timely fashion.
- Apologised to Mr X for failing to fully consider his Housing Register Review in its entirety.
- Carried out a fresh review of the decision regarding Mr X's medical priority and request for two bedroom accommodation. The decision was issued to Mr X via his solicitor.
- Issued a full compensation payment to Mr X of £250 for the distress caused by the delay and his time and trouble pursuing this complaint.

3.2.2. The above actions were taken within one month of the report being published.

3.3. Lessons Learnt, Improvement and Prevention

3.3.1. The Housing Solutions Service apologises unreservedly for the anguish caused to Mr X during the process. The Service recognises that in its attempt to 'appease' and exercise its duty of care to Mr X under the Equalities Act 2010, it inadvertently caused further delays thereby adding to the distress. The service are committed to ensuring that this situation does not happen again.

3.3.2. The lessons learned from this case and measures identified to ensuring an improvement in the processes are as follows:-

- Clearer statistics on the total number of Housing Register Reviews being received into the service to ensure a more timely response to all.
- Closer monitoring of 'repeat contacts' to identify earlier, cases which may need to be prioritised due to a perceived 'urgency'.
- Training and lessons learned sessions to be included in the weekly Reviews team meetings.
- Clearer line drawn between what would constitute a 'Housing Management' issue and a Housing Register Review.
- Clearer line drawn between the remit of the HMA, coupled with training and development to empower the team to feel confident in making their assessments where a health-related housing concern exists.

3.3.3. This case has also helped the service identify where it does work well and can continue to make improvements in these areas; such as successful joined up working practices within the Housing Needs Division and social care; in that the officers involved were able to identify a potential vulnerability and make the necessary reasonable adjustments, accordingly.

4. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

4.1. The financial recommendations made by the LGSCO were:

- pay Mr X £250 for the distress caused by the delay and his time and trouble pursuing the complaint.

4.2. These payments have been made and funded from existing service budget.

Approved by *Sarah Attwood.*, Department Head(s) of Finance/nominated deputy(ies))

5. COMMENTS OF THE COUNCIL SOLICITOR AND MONITORING OFFICER

5.1. The Solicitor to the Council comments that by presenting the Local Government & Social Care Ombudsman's findings to this meeting of the GPAC, the Council has fulfilled its obligations under section 31(2) of the Local Government Act 1974.

Approved by: Sean Murphy head oflaw/ interim head oflaw) on behalf of the Director of Law and Monitoring Officer

6. HUMAN RESOURCES IMPACT

6.1. None

7. EQUALITIES IMPACT

7.1. None

8. ENVIRONMENTAL IMPACT

8.1. None

CONTACT OFFICER:

Mark Meehan, Director of Housing Need

APPENDICES TO THIS REPORT:

Report

Appendix 1 - Excerpt from the LGSCO

BACKGROUND DOCUMENTS: None

Appendix 1 ~ Excerpt from the LGSCO Report:

What we found

14. Mr X lives in a one bedroom ground floor property which he rents from the Council. Mr X believes this is temporary accommodation. However, this is permanent accommodation as he has a secure tenancy with the Council.
15. In November 2015 Mr X applied for rehousing with the Council. His application was cancelled in December 2015 as the Council said he was adequately housed.
16. Mr X complained to the Council about his housing in March 2017. The Council responded to his complaint in April 2017 to say that it considered he was adequately housed. The Council gave Mr X advice about other rehousing options open to him.
17. The Council received a further complaint from Mr X on 2 May 2017 explaining he had medical evidence the Council should consider. Mr X said he needed to move from his current property due to noise and anti-social behaviour which was having a significant impact on his epilepsy. Mr X also said he needed a two bedroom property so he could have someone stay with him overnight to care for him.
18. Mr X enclosed two letters with his complaint both from his consultant neurologist that were dated December 2016. The consultant neurologist explained Mr X's condition had deteriorated and the frequency of his seizures was *"life threatening and... the only way these will come under better control is if he is in more suitable accommodation"*.
19. Mr X also enclosed a letter from his GP which said Mr X required two bedroom accommodation so a carer can stay overnight. The GP also said that Mr X: *"... suffers with severe anxiety and agoraphobia – many of the medications usually used to treat anxiety are contraindicated for him, due to his epilepsy. His epilepsy is known to be worse with noisy situations"*.
20. The Council accepted this as a request for a review of Mr X's housing application from November 2015.
21. The Council spoke to Mr X on 12 June 2017 and he agreed to provide further supporting medical evidence. This was sent to the Council on 30 August 2017. Mr X provided another letter from his consultant neurologist dated July 2017 which said Mr X *"has frequent severe seizures and therefore needs supervision and quiet housing, to ensure he gets sufficient undisturbed sleep as sleep deprivation can provoke seizures"*.
22. The Council sent the information to its Independent Housing Medical Advisor who replied on 28 September 2017 and said *"epilepsy but no evidence health related housing needs"*.
23. In its response to our enquiries the Council said that Mr X's review was *"ongoing"* due to *"the complexity of the case and sensitivity needed"*. The Council said the medical evidence was considered by its *"Independent Housing Medical Advisor... who was unable to award any medical priority or agree his needs warrants a 2-bedroom property"*.

24. The Council was considering whether a transfer can be granted *“on the basis of safeguarding”*. The Council said it was liaising with *“the local Safer Neighbourhood Teams to assess the gravity of [Mr X’s] complaints against his neighbours... we are awaiting comments from the police in response to our enquiries... We are also exploring an alternative rehousing solution for [Mr X] – the possibility that he can be rehoused with his mother to a larger accommodation; as he has expressed a fear of being alone. This rehousing avenue is in its infancy and has yet to be fully explored”*.

25. On 20 December 2017 the Council wrote to Mr X to say he was being *“prioritised for an allocation to a suitable 1-bedroom property”* on a discretionary basis. In its letter the Council said Mr X’s needs *“did not meet the minimum threshold to be included on the register under [its] Health Related criteria”*.

Conclusions

26. The Council’s policy says it will take eight weeks to carry out a review of a decision on a person’s housing application. It has taken the Council 33 weeks to carry out the review. Part of the delay resulted from the Council waiting for Mr X to provide further medical evidence but this only accounts for a period of 11 weeks. It has still taken the Council over 10 weeks more than it should have to complete its review and issue Mr X with a decision. This is fault.

27. Mr X’s review was about the Council’s decision not to award him medical priority on his housing application. The Council could have completed this review whilst still considering other housing options for Mr X, such as a housing management transfer.

28. There is also fault in the way the Council reached its decision not to award Mr X medical priority based on advice from its Independent Housing Medical Advisor. It is for the Council to make a decision on medical priority and not the Independent Housing Medical Advisor. The Council is entitled to take account of the Independent Housing Medical Advisor’s opinion but must also take account of other medical evidence it receives.

29. In reaching its decision the Council should consider the fact that its Independent Housing Medical Advisor has not examined or spoken to Mr X. Furthermore, the Independent Housing Medical Advisor’s advice does not address the issues raised by Mr X’s consultant neurologist or his GP regarding the impact of his medical conditions on his housing.

30. In its response to our draft report the Council says it *“seeks medical opinion from its Independent Medical Adviser but the council makes the decision on medical priority”*. The Council’s response to our draft report indicates its current approach to considering medical evidence is now in line with its own policy and established case law. Therefore, we have made no recommendations for the Council to review its policies and procedures.

31. As a result of the fault Mr X has been caused distress whilst waiting for an outcome from the Council regarding his housing and has been put to time and trouble pursuing the complaint.

32. We cannot comment on the Council's actions regarding Mr X's housing management transfer as a result of safeguarding concerns. This is because it is a housing management issue and so we cannot investigate this.

Recommendations

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 agreed to:

- carry out a fresh review of its decision regarding Mr X's medical priority and request for two bedroom accommodation and issue Mr X with a decision. The decision letter should explain the reasons for the Council's decision.
- pay Mr X £250 for the distress caused by the delay and his time and trouble pursuing this complaint.

If the Council decides to award Mr X medical priority this should be backdated to 2 May 2017.

Decision

35. We will now complete our investigation. This is because we have found fault causing injustice and the action we have recommended is a suitable way to remedy this.

