

# Cabinet

## Supplementary Information



**Date:** Tuesday, 1 May 2018

**Time:** 4.00 pm

**Venue:** The Council Chamber - City Hall, College Green, Bristol, BS1 5TR

### **Distribution:**

**Councillors:** Mayor Marvin Rees, Nicola Beech, Craig Cheney, Asher Craig, Kye Dudd, Helen Godwin, Helen Holland, Anna Keen, Paul Smith and Mhairi Threlfall

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**Date:** Tuesday 1 May 2018



# Supplementary Agenda

## 15. Monitoring Officer Referral of a report by the Local Government Ombudsman

Can also be found at:

<https://www.lgo.org.uk/decisions/housing/homelessness/16-003-575>

**(Pages 3 - 22)**



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

**Investigation into a complaint against  
Bristol City Council  
(reference number: 16 003 575)**

**3 April 2018>**

## The Ombudsman's role

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

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

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

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

# Investigation into complaint number 16 003 575 against Bristol City Council

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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

## Report summary

### Housing: homelessness

Mr X and his family lived in one room in a hotel with no cooking facilities from April 2014 to July 2017. Many Council Departments knew about this but did not refer to the Housing Department for help and advice. The Council opened a housing application for Mr X in 2014 for administrative purposes. It did not tell Mr X about this and Mr X could not make a new housing application. In August 2015 the Council told Mr X it would not communicate with him further about his housing situation and storage of his possessions. When the Council did register a housing application in March 2017, Mr X made a successful bid in two months. The delay in getting to this point meant Mr X missed the opportunity of an earlier offer of suitable accommodation.

The Council failed to take a homelessness application in April 2016 and did not do so until March 2017. We cannot say what the outcome of the homelessness application would have been but Mr X missed the opportunity of suitable interim accommodation and an earlier active housing application.

The Council wrongly stopped paying for the storage of Mr X's possessions in 2015 causing him time, trouble and distress and meaning he was without access to his possessions.

### Finding

Fault found causing injustice and recommendations made.

### Recommendations

During the investigation, the Council followed a recommendation from us and registered a homelessness and housing application for Mr X. It has now housed Mr X and returned his stored belongings to him. We also recommended the Council wipe off the whole contribution Mr X agreed to make for storage costs in recognition of the trouble and distress its actions caused when it stopped paying for storage. The Council has done this. We welcome the action the Council has already taken to provide a remedy for part of Mr X's complaint.

- In addition, to fully remedy the injustice caused, we recommend the Council should pay Mr X £9,000. This is £350 a month (£8,400) for a delay of at least two years in the Council taking action to help the family find suitable accommodation. The other £600 is for the delay in taking a new homeless application; and the time, trouble, frustration and distress it has caused.
- We also recommend the Council confirms to us in future it will follow the law and not automatically end its duty to store the belongings of people it has found intentionally homeless.

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 Complaint

1. Mr X complains Bristol City Council (the Council) will not let him register on its waiting list or make a homelessness application. He says Council housing officers refuse to see him and have offered him no assistance in finding accommodation. He says his family of five, including two children with a visual disability, live in one room in a hotel.
2. Mr X also complains about the Council's actions when it ended its duty to protect his belongings.

## Legal and administrative background

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)*

## Housing Legislation

4. If a council has 'reason to believe' someone may be homeless or threatened with homelessness, it must take a homelessness application and make inquiries. The threshold for taking an application is low. The person does not have to complete a specific form or approach a particular council department. *(Housing Act 1996, section 184 and Homelessness Code of Guidance for Local Authorities paragraphs 6.2 and 6.6)*
5. When a council finds someone intentionally homeless it must provide them with advice and assistance in finding accommodation. *(Housing Act 1996, section 190)*
6. If a council believes a homeless applicant with a child under 18 is intentionally homeless, it has to invite the applicant to give consent for a referral to Children's Services. *(Housing Act 1996 section 213A)*
7. A council must provide interim accommodation while it considers a homelessness application if it has reason to believe the applicant may be homeless, eligible for assistance and in priority need. *(Housing Act 1996, section 188 and Homelessness Code of Guidance for Local Authorities, paragraphs 6.5)*
8. There is no period of disqualification if an applicant wants to make a fresh homelessness application after the council has found him or her intentionally homeless. The council has to decide if there are new facts. If there are substantive new facts the council must treat the application in the same way as any other application. If there are no new facts, or the change is trivial the council does not have to consider the new application. *(Code of Guidance paragraph 11.30)*

9. A council should advise a homeless applicant to also apply for social housing through its allocations scheme. (*Homelessness Code of Guidance for Local Authorities paragraph 6.3*)
10. Every local housing authority must publish an allocations scheme that sets out how it prioritises applicants, and its procedures for allocating housing. All allocations must be made in strict accordance with the published scheme. (*Housing Act 1996, section 166A(1) & (14)*)
11. A council must consider every housing application made to it, if it is made in accordance with the allocation scheme. (*Housing Act 1996, section 166 (3)*)
12. An allocations scheme must give reasonable preference to applicants in the following categories:
  - homeless people;
  - people in insanitary, overcrowded or unsatisfactory housing;
  - people who need to move on medical or welfare grounds;
  - people who need to move to avoid hardship to themselves or others. (*Housing Act 1996, section 166A(3)*)
13. Councils must notify applicants in writing of the following decisions and give reasons:
  - that the applicant is not eligible for an allocation;
  - that the applicant is not a qualifying person;
  - a decision not to award the applicant reasonable preference because of their unacceptable behaviour; and
  - the right to request a review of these decisions. (*Housing Act 1996, section 166A (9)*)

### **The Council's policy**

14. In 2012 the Council's allocation policy said an applicant will be relegated by one band if he has not lived six of the last twelve months in Bristol or have family in Bristol. The Council's May 2015 policy says the applicant must live continuously in the City for two years before he can join the register. Otherwise the applicant needs to show he needs to give or get support from a close relative who has lived in the City for at least two years.
15. Both policies say when an applicant with children lives in a studio or bedsit it will class the property as having no bedrooms. It will award band 1 to households who lack three bedrooms or where a member of the household has an urgent medical need related to the current housing. It will also award band 1 to applicants who in the opinion of the Rehousing Manager have an urgent need to move. It will award band 2 to households lacking two bedrooms. It will award band 3 to applicants it has found intentionally homeless or where a household member has a physical health problem that could be



helped by rehousing. The 2015 policy says the Council will place applicants who do not meet any criteria for band 1,2 or 3 in band 4.

16. When an applicant falls into more than one band the Council will place the application in the highest band and backdate the application by six months.
17. Both policies contain details of which applicants the Council excludes from the register. The 2012 policy excluded those guilty of serious anti-social behaviour. The only behaviour a council can consider serious enough for exclusion is behaviour which would entitle a council to a possession order. Under the policy before applying this exclusion the Council must ask the applicant for information. It must also tell the applicant of its decision and give them a right to ask for a review.
18. Under the 2012 policy the Council could also reduce the applicant's priority by one band in other categories including unacceptable behaviour. This carried with it the right to ask for a review. The Council could waive the relegation if the applicant had an urgent need to move. The Council did not exclude the application or reduce the priority of applicants with a debt to a private landlord.
19. The 2015 policy had a longer list of exclusions. It says the Council will not accept an application for three years if an applicant has been evicted for rent arrears and has not kept to the terms of a possession order. The applicant has the right of review within 21 days of receiving the Council's decision. The Council can waive the exclusion if the applicant has an urgent need to move.
20. Neither policy excludes someone the Council has found intentionally homeless.
21. Under the 2015 policy the Council can reduce the applicant's priority to band 4 if it believes the applicant deliberately did something to worsen their housing conditions. It will review this if there is a material change of circumstances for the household.
22. Under both policies a couple with two children aged under ten needs two bedrooms and a couple with three children need three bedrooms. The Council will only count an unborn child when assessing the size of property the applicant needs after the mother is more than 20 weeks pregnant.
23. Under both policies the applicant must renew the application annually. The Council's website says normally once a year on the anniversary of the application it will ask the applicant to log onto their account and review it. If the applicant does not do this it will cancel the application.
24. The Council operates a choice-based lettings scheme which enables housing applicants to bid for available properties which it advertises.

### **Duty to protect possessions**

25. The Housing Act 1996 defines councils' duties to the belongings of homelessness applicants. If a council has had a duty to accommodate an applicant, then, it must take reasonable steps to prevent loss of or damage to the applicant's belongings. The

council's duty to someone's belongings can continue even after it no longer has a duty to accommodate that person. This includes applicants the council has found intentionally homeless. (*Housing Act 1996 s211*)

26. The council's duty to protect belongings ends when the applicant asks the council to move his belongings to a suitable location nominated by him. If the council considers the request reasonable and informs the applicant of the consequences of his request, it can then move the belongings and its duty ends.
27. The only other way the duty ends is if the council considers there is no longer any danger the applicant's belongings could be lost or damaged. The council must notify the applicant and provide reasons for its decision. A council's reasons for ending the duty include if the applicant finds somewhere to keep their belongings or becomes able to afford the cost of storage himself. (*Housing Act 1996 s212 and Homelessness Code of Guidance for Local Authorities paragraph 20.11*)
28. A council can make a reasonable charge for protecting the applicant's belongings. (*Housing Act 1996 s211*)
29. When a council accepts a duty to protect the applicant's belongings it must take care of them and deliver them to the owner when he has reasonably requested this. (*Homelessness Code of Guidance for Local Authorities paragraph 20.8*)

## How we considered this complaint

30. We produced this report after examining relevant documents.
31. We gave the complainant and the Council a confidential draft of this report and invited them to comment before finalising the report.

## What we found

32. In 2014 Mr X, his wife and two children were homeless following an eviction from a private rented tenancy not in Bristol. The Court made the possession order on the basis the landlord had served a valid section 21 notice ending the tenancy on time grounds. The landlord agreed to drop a claim for rent arrears and Mr X agreed to drop his counter claim for disrepair.
33. Mr X has family in Bristol. In April 2014 the family moved into one room in a hotel in Bristol. Mr X put the family's belongings in a storage unit. Mr X made a homelessness application to the Council. The Council did not accept the application until June 2014. The hotel costs more than the maximum the Council can pay under the local housing allowance. The Council made up the difference in the cost from April to June 2014 with a discretionary housing payment. The Council said this was because of:

*"confusing and conflicting conversations with Bristol City Council and is provided to cover these costs until your homeless application was accepted in June".*

34. Since June 2014 Mr X has had to find the difference. He does this from benefits he receives and from borrowing. Mr X often had arrears. Since September 2016 he has mainly kept up to date with the rent by using disability benefits he receives for his children. He says because of this he cannot save enough for rent in advance and a deposit for a private tenancy.
35. In June 2014 the Council took over payment for the storage of Mr X's belongings. On 31 July 2014 Mr X signed an agreement to pay the Council £12 a month towards the costs of storing his belongings.
36. In October 2014 Mr X complained to us about the Council's delay in dealing with his homelessness application.
37. In November 2014 the hotel contacted Children's Services as it was concerned about the time the children had spent living in a hotel. Children's Services visited the family and recorded Mr X was concerned about their housing situation but hoped to move abroad soon. Mr X confirmed he and Mrs X home schooled the children. Children's Services checked with the Home Education Service, Police and Somerset Social Services.
38. In December 2014 the Council found Mr X intentionally homeless. The Council's decision letter said:

*"if you would like your application for housing to continue on the Bristol Housing Register, please complete an online application form". And*

*"We will refer your details to First Response who may wish to contact you further."*
39. First Response is the Council's Children's Services Department. We have not seen any evidence the Housing Department made a referral to Children's Services.
40. The Council says Mr X did not apply to go on its housing register. It says in June 2014 it reopened an old housing application from Mr X for administrative purposes to record it was dealing with a homelessness application. It says this was not an active application.
41. Also in December 2014 Mr X found a possible private tenancy. He asked the Council for help with rent in advance and a deposit. The Council agreed a payment of £1,000 in January 2015. Mr X says by this time he had lost the potential tenancy.
42. In January 2015 Children's Services held a strategy discussion and decided to close the case. The Council says a social worker contacted the hotel in January but Mr X had moved. At a further strategy meeting in February 2015 Children's Services decided there were no grounds for concern and no further action was needed.
43. Mr X asked the Council to review its decision he was homeless intentionally. On 26 February 2015 the Council sent Mr X a letter saying it intended to uphold its decision he was intentionally homeless and asking for any further information he wanted the Council to consider by 5 March. On 5 March 2015 the Council upheld its decision. Mr X complained he had not received the Council's letters of 26 February until 5 March and

sent information he wanted the Council to consider. The Council did not uphold his complaint and said his information would not have made a difference.

44. Mr X says he asked for advice on registering for housing. He says the officer told him he could not register for five years after the intentional homeless decision. The Council says it does not have any record of Mr X asking for advice and it has never been its policy that a finding of intentional homelessness stopped an applicant registering for housing for five years.
45. The Council wrote to Mr X and said as it had made a negative decision on his homelessness application it did not owe him any further duty under the homelessness legislation. It told him to remove his belongings from the storage by the end of April or the Council would arrange its disposal.
46. On 9 March 2015 the Council introduced a pre-qualifier on its website for housing applicants. This said if someone had been evicted in the last three years for bad behaviour or rent arrears they were unlikely to be accepted. If an applicant ticked yes to either the system prevented them from making an on-line application.
47. Mr X says he tried to make an on-line housing application. He says because he had been evicted from his last settled home and the Council had found him intentionally homeless the screen told him he was not eligible and the system did not allow him to complete the application. The Council say this would only happen if Mr X said he had been evicted for poor behaviour or rent arrears. It says if Mr X made an application it would not have accepted this due to unacceptable behaviour in Mr X's previous private tenancy.
48. In April 2015 Mr X applied for a discretionary housing payment to help with moving costs as he had found another potential private tenancy. The Council refused this. Mr X could not take up the tenancy.
49. In May 2015 the hotel made another report to Children's Services about the children living in hotels. Children's Services made enquiries of the Education Department but took no further action.
50. Mr X complained to the Council and it extended the deadline to remove his belongings to the end of May 2015 to allow Mr X to get advice. This had not formed part of Mr X's first complaint to us. However, the Council told us about the extended deadline and we passed the Council's message to Mr X.
51. Mr X received an email from the Council dated 21 May 2015 saying that from 31 May he had to pay the storage company and if he did not it might dispose of his belongings. Mr X says he had no money to pay for storage. He says he heard nothing more from the Council.
52. In June 2015 the Council stopped paying for storage. Mr X applied to the Council for a discretionary housing payment to help him pay for storage fees and the shortfall in the hotel costs. The Council refused.

53. From May 2015 Mr X complained to the Council about his housing situation and storage of his belongings. He received a stage one and a stage two response from the Council.
54. Mr X and his family continued to live in a hotel room. Every so often the hotel management asked them to leave and so they moved between hotels. The family had no cooking facilities at the hotels.
55. In June 2015 Mr X says he asked Children's Services to carry out a needs assessment. The Council says it has no record of this.
56. In August 2015 a Housing Advice Team Manager wrote to Mr X. The Manager said:
- "Please note we will not be responding to any further communication from you about your housing situation or the storage of your belongings. I am sorry to have to take such a robust approach but I feel your repeated communications leave me with no choice".*
57. Mr X says since the Council sent this letter it will not let him see a housing officer. He says he goes to the Council's citizen service points which are a one stop shop for Council services. He says he has no problem providing information through the citizen service points to other services including benefits. However, he believes the advisors see a note on its system from housing and he cannot pass information to it or make an appointment to see anyone.
58. The Council denies there is any note and says the letter is not on a shared database so was not available to the homelessness service or the citizen advice point. It says it would not record everyone that came into its citizen's service point but it does record all appointments. The Council accepts the letter should have referred to no further communication on Mr X's homelessness review and should not have used the words "housing situation".
59. In November 2015 we closed Mr X's complaint about his homelessness application.
60. Mr X says towards the end of 2015 he went to the Council to tell it his wife was pregnant with their third child. He says he was told to come back when she was 26 weeks pregnant. He says he did this in March 2016 and the citizen service point told him to put this in writing. On 3 March Mr X sent an email to the benefits enquiry address. This says:
- "My wife is now 7 months pregnant with our 3rd child. We believe that this is a change of circumstance that should lead to a new homelessness application being taken by the Council. We are currently being forced to stay within one room at a local hotel (largely at our own expense) but this would be impossible following the birth of our baby in May. We urgently request a face-to-face meeting to discuss our options and assist us in finding suitable accommodation."*
61. Mr X says he received no response to this. The Council says it does not have a record of receiving this email. It does not keep emails this long and cannot offer an explanation about what happened to it or if it received it. It says it can find no basis anyone would have told Mr X to return when his wife was 6 months pregnant.

62. In April 2016 Mr X made another application for a discretionary housing payment. In this he said how desperate the family was for accommodation. He said his wife was due to give birth in May and the hotel was then likely to ask them to leave. He said he tried to make a new homelessness application in March 2016 but this was not accepted and he was not allowed to register for housing until 2019. He said he could not afford the cost of the hotel and his debt to it was increasing and he had to borrow money. The Council turned down the application for a discretionary payment.
63. In April 2016 the Council cancelled the housing application it had reopened for Mr X in June 2014. It told us:
- “this was subsequently cancelled on 13th April 2016 following a data cleanse exercise of our applications. As Mr X had made no contact with services since 2015 the application was cancelled”.*
64. The Council says the existence of this application did not affect Mr X’s ability to register a new application on-line.
65. In May 2016 Mr X’s third child was born. Mr X says he took the birth certificate to the Council and wanted to make a new homelessness application but was refused an appointment. He says he also asked about making a housing register application because of the change in his circumstances. The Council says its Housing Benefit Department received the birth certificate in June but it does not have any record of Mr X making a housing enquiry.
66. Mr X says he tried again to register for housing on-line but the same thing happened. He said ‘yes’ when asked if he had ever been evicted and was not allowed to complete the application.
67. The Council says there is no evidence Mr X asked it for housing advice and it refused to make an appointment. It says there is no evidence Mr X tried to apply on-line. It does not keep a record of who has used the pre-application checker. It says if Mr X made an application it would not have accepted it because of Mr X’s unacceptable behaviour in his previous tenancy. It says although Mr X’s landlord gained a no fault possession order, it can look behind the reasons for this. It says as it had found him intentionally homeless it was likely to exclude him from the register for the same reasons it had found him intentionally homeless. It says before April 2016 it does not consider Mr X’s housing need so urgent as to make an exception to the policy. It says if Mr X had applied after that and it had waived his exclusion it would have placed him in band 4 for deliberately worsening his housing situation.
68. Mr X found another possible private rented property. He applied to the Council for a discretionary housing payment to cover the rent in advance and deposit. The Council refused his application and Mr X asked for a review. The Council checked with the landlord who had now let the property to someone else.
69. In July 2016 Mr X made a new complaint to us. He said the Council had refused to take a new homelessness application from him and continued to fail to provide housing

assistance. He wanted the Council to process his application and provide accommodation. He said he found it increasingly difficult to cope in the hotel with the new baby. We sent Mr X's complaint to the Council as the Council had not had a chance to deal with it.

70. Also in July 2016 Mr X discovered his new baby had a degenerative eye condition causing blindness. He told us and the Council. Mr X's baby is registered with the Council's Visual Impairment Team. The children's specialists at the eye hospital were also concerned about the family's accommodation.

71. In response to a draft of this report the Council says the Visual Impairment Team liaised with the Housing Department to support the family's need for better accommodation. We have not found any evidence of this. We have seen the Team's records of home visits and support plans and these do not mention housing. In a letter to us of February 2017 the Council said:

*"The Council received a query from Early Help in October 2016 to check if the family were known to us following an enquiry to them from Mr (X) but that has been the limit of any contact."*

72. Mr X again asked for a discretionary housing payment because he needed to move due to his son's blindness. The Council agreed it would pay Mr X a discretionary housing payment of £1,000 if he found a suitable property.

73. In September 2016 the Council responded to Mr X's complaint. It did not uphold it and said it did not have a record of receiving a homelessness application since it refused his previous one. It said:

*"in August 2015 a letter was sent to you in which it was made clear that it was the last correspondence the Council intended to send you on the matter but this falls short of declaring you vexatious".*

*"Whilst I cannot guarantee it would result in a successful application, there is nothing preventing you approaching the Council for homelessness advice."*

74. The Council accepts it should have made an appointment for Mr X to discuss his housing needs. It says if it had taken a new homelessness application it is likely it would have found him intentionally homeless due to his previous eviction for rent arrears.

75. In October 2016 Mr X resubmitted his complaint to us.

76. We asked the Council for its records of contact between Mr X and the Housing Department since January 2015; including its computer records.

77. The Council said it does not have any records of Mr X approaching the department or the customer service point for housing assistance after January 2015. It said it invited Mr X to apply for further assistance in April 2015 but he had not done so and it was not aware of his current circumstances.

78. We also asked for any letter or document Mr X provided to the Council since December 2015 and what action it took. The Council did not originally provide us with any letters or documents. Mr X provided an email receipt from the Council dated October 2015 which he says is when he told it his wife was pregnant. He also provided other email receipts from the Council.
79. The Council has since provided records of Mr X's complaint correspondence from 2015 and discretionary housing payment applications from 2016.
80. Another of Mr X's children now has a diagnosis of the same degenerative eye condition.
81. In November 2016 Children's Services started a full assessment of the family. It completed this on 6 December. Mr X found another potential private tenancy starting March 2017 but he needed £1,700 for rent in advance and a deposit. In January 2017 the Council paid him the £1,000 discretionary housing payment it agreed in July 2016. Mr X paid £350 of this as a holding deposit for the property and tried to find the other £700 he needed. Children's Services closed the case as no further action needed.
82. On 10 January 2017 the Council mistakenly suspended Mr X's housing benefit claim as an officer wrongly believed Mr X had already moved. Mr X needed money to pay the hotel and lacked the additional £700 he needed for the potential let. The Housing Benefit Department intended to rectify the mistake. However, the Council emailed Mr X on 13 February 2017 to say it had a problem with its system and although it had reinstated his claim, it had not paid it. The Council paid the claim for January and February on 28 February 2017. On 1 March 2017 Mr X emailed the Housing Benefit Department to say he had lost the prospective property because of this. He lost the holding deposit of £350.
83. In January 2017 the Council changed its on-line housing pre-qualifier. Now if an applicant says they have been evicted in the last three years for behaviour or arrears they can complete the application. They will get a message to say it is unlikely they will be accepted but a member of staff will check the application.
84. In March 2017, following a recommendation from us, the Council took a housing and homelessness application from Mr X and offered him interim accommodation. Mr X says there was no actual accommodation offered, the Council said it would arrange some. He declined this as he did not want something worse. As he had the back payment of Housing Benefit, he says he was in credit with his rent at the hotel. The Council says it made several appointments with Mr and Mrs X to get information for his homelessness application but they did not keep these.
85. On 5 April 2017 Mr X emailed the Council and said:
- "The housing application was also slightly delayed due to issues with my national insurance log in details (it seemed that your system already had an active application open for us so it took some time to reset). That said, the online application was still completed in March".*



86. In May 2017 Mr X made a successful bid for a home through his housing application and moved into this in June 2017. He withdrew his homelessness application.
87. Mr X's belongings were still in the store. He had no access to it as he did not have the keys. He says the storage company would not let him have access unless he paid the outstanding cost which was about £5,500. Mr X says he has no money to pay this and until June 2017 nowhere to store his belongings.
88. The Council has accepted that it did not properly end its duty to store Mr X's belongings in 2015. In June 2017 the Council served notice on Mr X that its duty to protect his belongings would end on 20 July as he has a home. The Council contacted the storage company about the outstanding debt. The Council negotiated payment with the storage company but said it would invoice Mr X for the full amount.
89. In August 2017 the Council paid the storage company and it returned Mr X's belongings to him.
90. In November 2017 the Council invoiced Mr X for £4,749.96 for storing his possessions. This is the whole cost and not the £12 a calendar month in the contract. In January 2018 the Council sent a reminder for this. The Council says it suggested to Mr X he could join a credit union to pay this.
91. In March 2018, following a recommendation from us, the Council waived the storage charge and removal costs.

## Conclusions

92. Guidance says the Council should advise a homelessness applicant to complete a separate application for social housing. The Housing Act says the Council must consider a housing application made to it.
93. When the Council dealt with Mr X's 2014 homelessness application it reopened an application Mr X made in 2005. The Council says this was for administrative purposes and was inactive. The Council's allocation policy makes no mention of inactive applications. It says it will assess applications. The Council should not have left the application inactive. It should either have closed it or activated it and assessed it. The failure to do so is fault.
94. The Council's homelessness decision letter of December 2014 told Mr X to complete an on-line application if he wanted his housing application to continue. However, it had not closed the application it had reopened in June 2014.
95. Mr X says an officer said he was not eligible and his attempts to register on-line failed. We cannot establish what an officer said but Mr X wrote to the Council and told it what he believed he was told and no-one from the Council gave the correct information. The Council says it cannot think of a reason anyone would tell Mr X to return when Mrs X's was six months pregnant. However, the Council would not add an unborn child to a

housing application until the mother is more than 20 weeks pregnant. We consider this provides evidence Mr X did try to seek housing advice.

96. We accept the Council's policy does not exclude those found intentionally homeless and does not have a five-year exclusion. However, Mr X's reports of his experiences when he tried to register are evidence he did make attempts to do this.
97. When the Council did register an application for Mr X in 2017, he reported an existing application caused problems as the officer had to reset the system. It appears the application the Council re-opened in 2014 would prevent Mr X making a new application.
98. The Council originally told us it had cancelled the application in 2016 because of lack of contact from Mr X and data cleansing. In 2015 Mr X contacted the Council so often about his housing situation it said it would not respond further.
99. The Council did not contact Mr X on the anniversary to renew the application. It did not tell him it had cancelled the application. If the Council had told Mr X about the application he could have asked it to assess it. The Council's failure to tell Mr X about the application it had opened and then leaving it open is fault.
100. In 2014 Mr X met the residence qualification in the Council's 2012 policy. From April 2016 he met the residence qualification the Council introduced in 2015. The Council says it would have rejected an application as Mr X's landlord had taken legal action for rent arrears. If the Council did this Mr X had the right to ask for a review. The Council must consider using its discretion. Mr X has a good case for discretion. His previous landlord did not obtain possession for rent arrears and was not given a judgement for arrears. He agreed to drop any arrears claim if Mr X dropped his claim for disrepair. Therefore the landlord had no basis on which he could recover any rent he alleged Mr X owed him. The Court had imposed no terms on the possession order so Mr X had not failed to keep to any term of the order.
101. The policy says the Council can waive this restriction if the applicant has an urgent need for accommodation. Mr X had an urgent need for accommodation as four people, including two children, living in one room, without cooking facilities. The situation worsened when another baby arrived.
102. The Council says if it had waived the exclusion in 2016 it would have placed the application in band 4. We see no grounds for this. The Council gives band 3 to applicants it has found intentionally homeless. Added to this, Mr X lived in extremely overcrowded conditions and from May 2016 had an additional disabled child. He had grounds for band 1 which the Council could have awarded.
103. Between March 2015 and January 2017 applicants whom the Council considered might be excluded from the register were prevented from registering on-line. This is against the law and the Council's policy. If the Council intends to exclude someone from the register it must give the reasons for this in writing and the applicant has a right of review. As the Council has not kept records of who used the pre-application checker we cannot know how many people the Council denied a right of review.

104. We have not seen any evidence that in December 2014 the Housing Department referred Mr X to Children's Services. This is fault as the Housing Act 1996 says the Council must do this if it has the applicant's consent. However Children's Services were aware of the family because of numerous referrals from other people.
105. It is difficult to understand why the various Council Departments involved with the family have not asked the Housing Department to assist them. It is particularly difficult to understand why Children's Services did not help the family. We understand Mr X was reluctant to tell Children's Services how hard it was for the family to cope and usually told it he had plans to move. He was concerned that to say otherwise may have unwanted consequences. However, Children's Services must consider the needs of the children. The government says the Council should not use bed and breakfast for homeless families with children for more than six weeks because of the impact on the children. The Council did not place Mr X in the hotel. However, when Children's Services received the first referral the family had already lived in the hotel for seven months. Children's Services received several referrals in 2015 and 2016, a new disabled baby arrived and another child developed a disability. The family was still in a hotel despite Mr X's attempts to resolve this. Children's Services is at fault for failing to carry out a full assessment sooner and for failing to address the accommodation needs of the children.
106. In 2017 the Council told us it was not aware of Mr X's circumstances. It was aware. Mr X made many applications for discretionary housing payments to try and resolve his housing problems and explained his circumstances. The Benefits Department knew of Mr X's circumstances. Children's Services knew of his circumstances as did Education and the Visual Impairment Team. That none of these Departments made a referral to Housing is fault.
107. We have not seen any evidence the Housing Department provided advice and assistance to Mr X after it found him intentionally homeless in 2015. The Benefits Department twice provided payments towards rent in advance and a deposit for a private tenancy. Sadly by the time it made one offer Mr X had lost the opportunity of the tenancy and the second offer was less than the money he needed. The Benefits Department also refused several other discretionary housing payment applications but did not refer Mr X to where he could get advice to resolve his housing situation.
108. A homelessness application does not have to be made on a form or to a particular department. We cannot know what happened to the email Mr X sent to the Council in March 2016. The Council did know Mr X wanted to make a new homelessness application because of the new baby. We or Mr X told it this in April, May and July 2016. The Council did not arrange to take a new application and so did not offer him interim accommodation.
109. In September 2016 the Council told Mr X nothing prevented him approaching the Council for housing advice. Mr X says the Council would not make an appointment for him to see a housing officer. The Council does not accept this. On the balance of probabilities, we accept Mr X tried to make appointments with the Housing Department but it refused. With a new baby due and four people already living in one room, it is highly likely Mr X did try to talk to the Housing Department. The Council only keeps records of appointments, not

people who ask for one. In August 2015 the Council told Mr X it would not communicate with him about his housing situation. Because of this, if Mr X went to the customer service point and asked for an appointment with a housing officer, even if the customer services point had no knowledge of the August 2015 letter, it is likely the Housing Department refused this request. If the Council did not make an appointment it would not have a record of this.

110. The Council did not take a homelessness application from Mr X until March 2017. The delay in taking a homeless application is fault. We do not know what decision the Council would have made on the application. The Council says Mr X refused interim accommodation in March 2017. This does not mean he would have refused it earlier. In March 2017 he was in credit with his rent to the hotel and now had an active housing application. Also if the Council had taken a homelessness application in Spring 2016, it would also have registered a housing application for Mr X.
111. The Housing Act specifies the Council's duties to protect an applicant's personal belongings include those it has found intentionally homeless. A finding of intentional homelessness does not end the Council's duty to protect belongings.
112. Before June 2017 Mr X had not asked the Council to return his belongings. The Council had not decided there was no longer any danger to Mr X's belongings and provided him with reasons. The Council still had a duty to protect Mr X's belongings and it was at fault for the way it tried to end the duty and for stopping payment. In August 2015 it refused to communicate further with Mr X about his stored belongings. It is fortunate the storage company has shown patience as it could have disposed of Mr X's belongings for the debt owed to it. The Council now accepts it did not end the storage duty properly in 2015. It returned Mr X's belongings to him in August 2017.
113. The Council invoiced Mr X for the full amount owing to the storage company. It cannot do this. Its agreement with Mr X was he would pay £12 a month. The Council has not reassessed Mr X's ability to contribute or made a new agreement with him. It is fault by the Council to charge more for storage that what it had agreed.

### ***Injustice***

114. If the Council had activated Mr X's 2014 housing application or even contacted him about it, it is likely the Council would have assessed an application and allowed Mr X to bid for property. When the Council did assess an application from Mr X in March 2017, he made a successful bid within two months because of his high priority. We conclude from this that Mr X missed the opportunity of an earlier offer of suitable settled accommodation and spent longer than necessary in the cramped hotel room. On the balance of probabilities if the Council had properly assessed an application from Mr X in 2014 he would have made a successful bid within 12 months.
115. If Mr X had received an earlier offer of social housing he would not have paid so much himself towards the rent. He would not have had to borrow money or from mid 2016 use his children's disability benefits to make up the shortfall in the cost of the hotel.

116. The failure of the Departments who did know about Mr X's housing but did nothing about it also caused delay in providing suitable, settled accommodation for the family. Children's Services were aware of the situation in November 2014.
117. The delay in taking a homelessness application meant Mr X missed the opportunity of moving to more suitable interim accommodation. It also meant he missed another opportunity to make a housing application.
118. The way the Council tried to end its duty to store Mr X's belongings in 2015 caused him injustice. He was put to unnecessary time and trouble. He suffered the frustration of the Council refusing to talk to him about the situation. He had to constantly negotiate with the storage company. He had no access to his belongings while in the hotel. He did not get his belongings back until two months after he moved into his new home and so had to live without some furniture.

## Decision

119. There was fault by the Council that caused Mr X injustice. Many Departments across the Council knew of Mr X's appalling housing circumstances but did not refer this to the Housing Department for help and advice. The Council opened a housing application in 2014 but did not make it active. It missed several opportunities to put this right and register an active application. When it did this in March 2017 Mr X made a successful bid in two months, so Mr X missed the opportunity of an earlier offer of suitable accommodation.
120. The Council failed to take a homelessness application in April 2016 and did not do so until March 2017. We cannot say what the outcome of the application would have been but Mr X missed the opportunity of suitable interim accommodation and an earlier active housing application.
121. The Council wrongly stopped paying for the storage of Mr X's belongings in 2015 causing him time, trouble and distress and meaning he was without any access to his possessions.

## Recommendations

122. During our investigation, the Council followed a recommendation from us and registered a homelessness and housing application for Mr X. It has now housed Mr X and returned his stored belongings to him. We also recommended the Council wipe off the whole contribution Mr X agreed to make for storage costs in recognition of the trouble and distress its actions caused when it stopped paying for storage. The Council has done this.
123. We welcome the action the Council has already taken to provide a remedy for part of Mr X's complaint.
124. In addition, to fully remedy the injustice caused, we recommend within three months the Council should pay Mr X £9,000. This is £350 a month (£8,400) for a delay of at least two years in the Council taking action to help the family find suitable accommodation. The

other £600 is for the delay in taking a new homelessness application; and the time, trouble, frustration and distress it has caused.

125. We also recommend the Council confirms to us in future it will follow the law and not automatically end its duty to store the belongings of people it has found intentionally homeless.
126. 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*)