

NPSS Conference

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Getting the basics right in a time of change

**Insights from complaints to the Ombudsman in the
last year**

**Looking at the whole range of homelessness
complaints, not just HRA**

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Local Government and Social Care Ombudsman

- > Investigates complaints of maladministration and service failure against councils, some other authorities and social care providers
- > Can recommend remedies for individuals and service improvements on upheld complaints

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Complaints 2018/19

- > Across all subject areas, 58% upheld where the Ombudsman investigated in detail
- > Homelessness complaints: 73% upheld
- > Was 75% the previous year

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Gatekeeping

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What is gatekeeping?

- > Failing to recognise a situation as a homelessness situation at the earliest opportunity
- > Not taking a homelessness application at the earliest opportunity
- > Discouraging someone from presenting as homeless
- > Might be deliberate or unintended
- > The Ombudsman regards it as **fault**

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Recap – the law

Low threshold:

'If the local housing authority have **reason to believe** that an applicant **may be** homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves—

- (a) whether he is eligible for assistance, and
- (b) if so, whether any duty, and if so what duty, is owed to him under the following provisions of this Part.'

Housing Act 1996, section 184(1)

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- > Homelessness enquiries lead to decisions about eligibility, homelessness, prevention and relief duties, interim accommodation etc.

- > Crucial to recognise homelessness situations at the outset

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Gatekeeping (1)

- > Section 21 notice recently served
- > Council did not deal with it as a homelessness matter until s21 expired and landlord applied for possession order
- > Clear fault – no need to wait for landlord to take court action

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Gatekeeping (2)

- > Online homelessness application: marriage breakup, sleeping in car, mental health problems
- > Council seems to have thought he was not homeless but did not issue decision saying that
- > Council took no action
- > Three months later, applicant came back
- > Council insisted on evidence of eligibility before proceeding – but it only needs ‘reason to believe,’ not proof

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Gatekeeping (2)

- > Injustice – applicant slept in car five months longer than necessary
- > Council apologised and paid £2500

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Gatekeeping (3)

- > Family sofa-surfing with relative who told them to leave
- > 'We're not treating you as homeless because your relative should have given you more than a week's notice'
- > 'We need to do a home visit before we accept your relative has told you to leave'
- > Visit took 10 days
- > Council had 'reason to believe...' from day one
- > Remedy: £450 to complainant, £150 to relative

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Gatekeeping (4)

- > Housing register application – applicant wants to move to escape violence from ex-partner
- > Housing register decision – does not meet residence qualification
- > No consideration of homelessness – is it reasonable to continue occupying current home?

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Gatekeeping (5) - difficult requirements

- > 'You both have to sign the application'
- > Appointment made for a time the homelessness section was closed
- > 'You have to come to the Council office' (disabled applicant in hospital)

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Interim accommodation

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Recap – the law

Low threshold:

‘If the local housing authority have **reason to believe** that an applicant **may be** homeless, eligible for assistance and have a priority need, they must secure that accommodation is available for the applicant's occupation.’

Housing Act 1996, section 188(1)

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Interim accommodation – failure to offer

- > Council had 'reason to believe' family 'may be' homeless
- > Interim accommodation not offered because Council not sure if applicant was eligible
- > Council made no enquiries about eligibility
- > Being 'sure' is the wrong test – Council had 'reason to believe' applicant 'may be' eligible

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Interim accommodation – not extending

- > Applicant six months pregnant
- > IH decision – one month to leave accommodation
- > Review requested
- > No consideration of whether to extend the accommodation
- > Three days before eviction, applicant gave birth prematurely
- > Council lost contact with applicant
- > Review took 15 weeks, overturned original decision

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Review rights

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Failure to inform of review rights

- > Unfavourable homelessness decisions
- > Referring to another area
- > Suitability of offers
- > When s188 becomes TA
- > 'We think we told her verbally' - doesn't count
- > Standard paragraph in letter templates should resolve this

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Delay

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- > **Homelessness decision** - 55 weeks
- > **Suitability reviews** – delayed or never completed
- > Should be eight weeks
- > Seven months – Council then promised to improve
- > Four months and eight months – same Council
- > Ombudsman issued report because of failure to keep promise to improve
- > Council changed its review process

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Condition of temporary accommodation

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- > The law allows the Ombudsman to treat services provided on behalf of a council as if the council was providing the service itself
- > So the Ombudsman holds the council responsible for how problems with the condition of interim or temporary accommodation are dealt with, regardless of who owns or manages the accommodation or where it is

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Condition of temporary accommodation

- > Fault – ‘you’ll have to tell the landlord about that’
- > Fault – inadequate records of problems reported and action taken
- > Fault – delay dealing with problems
- > Fault – failure to deal with problems
- > Examples – heating and hot water problems, inadequate locks, mould and damp, infestations

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Interim and TA – other issues

- > Inadequate accommodation for people with physical disabilities
- > Not taking account of distance from services, e.g. applicant’s GP if applicant has to attend regularly
- > Acknowledging accommodation is unsuitable but not moving the applicant

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Families in B&B

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B&B – the law (1)

- > 'B&B' accommodation' means accommodation which is not separate and self-contained premises and where any one of toilet, personal washing facilities or cooking facilities is shared by more than one household
- > Except accommodation owned or managed by a local housing authority, a registered social landlord or certain voluntary organisations

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B&B – the law (2)

- > B&B accommodation is not suitable as interim or temporary accommodation for pregnant women or families with children
- > Except where nothing else is available **and** where B&B is used for no longer than **six weeks** in total

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Fault – families too long in B&B

- > Family in B&B 16 weeks, 10 weeks avoidable
- > No cooking facilities or drinking water
- > Council paid £750

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Homeless 17-year-old

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- > Known vulnerability: recent mental health problems, drug use, at risk of sexual exploitation
- > Homeless - placed in supported accommodation
- > Evicted for breaching conditions
- > Housing section ended homelessness duty
- > Referred to children's services, who offered supported accommodation 30 miles away
- > Applicant declined to go there but next day asked for accommodation

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- > Council couldn't find supported accommodation
- > Council provided a tent
- > The tent leaked
- > Council provided another tent
- > Applicant started fire to keep warm
- > Applicant arrested stealing food
- > Council provided static caravan
- > Council briefly provided B&B
- > Applicant sectioned for 11 months

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- > Fault – not having enough suitable accommodation for a foreseeable need
- > Fault – B&B unsuitable for 16 and 17 year olds (statutory guidance)
- > Fault – tent and static caravan unsuitable
- > Apology, paid £2500 to child, £1500 to mother
- > Council agreed action plan to ensure enough suitable accommodation for young people
- > Tent, caravan and B&B will never be considered
- > Staff training

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Belongings of homeless people

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- > Councils must take reasonable steps to protect belongings that are endangered by an applicant's inability to protect or deal with them
- > The duty to protect belongings is separate from the duty to the homeless person
- > The duty to belongings can continue after the duty to the person ends

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Fault – wrongly ending the duty (1)

- > Applicant and children in TA with their belongings
- > Applicant sent to prison
- > Council ended TA and put belongings in storage
- > Council said duty to applicant had ended so it had no duty to her belongings - **wrong**
- > Council knew applicant couldn't afford full costs
- > Council unreasonably refused her offers to pay a contribution
- > Council disposed of the belongings without proper notification

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Fault – wrongly ending the duty (2)

- > Family lost all belongings, including furniture, white goods, TV, bikes, children's clothes and toys
- > Council agreed to pay £7500 and write off storage charges
- > Council arranged staff training

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Fault – not acting on a request

- > Applicant told Council she could no longer afford storage costs
- > Council did nothing till applicant chased three months later
- > Council then took over the costs but not retrospectively

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Homelessness Reduction Act - themes

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HRA - new duties

- > Few Ombudsman decisions - difficult to spot trends
- > Notification – no letter when beginning or ending duty, naming wrong duty, not giving review rights
- > Delay issuing PHP
- > Not taking the steps in PHP
- > Not providing short-term accommodation after finding priority need applicant intentionally homeless
- > Lots of good practice
- > Watch this space – Focus Report planned

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Useful information

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Putting matters right (1)

- > Aim to put the complainant back in the position they would have been in if the fault had not happened
- > Practical action – e.g. take application, provide accommodation
- > Apology
- > Review practice and training – could it happen again?
- > Sometimes a financial remedy is also appropriate

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Putting matters right (2) - financial remedies

- > See our Guidance on Remedies (website)
- > Payment can recognise loss of service, unnecessary expense, distress, lost opportunity, time and trouble
- > Inadequate accommodation: £150 to £350 a month
- > Unsuitable use of B&B: £50 to £150 a week

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More information

- > www.lgo.org.uk
- > Reports, guidance, decisions, sign up for weekly lists of decisions
- > Speak to us (via your link officer) for advice on individual cases