

Local Government &
Social Care
OMBUDSMAN



Still no place like home?

**Councils' continuing use of
unsuitable bed and breakfast
accommodation for families**

December 2017

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Ombudsman's foreword



In October 2013, we published a report entitled [*No Place Like Home*](#), about councils' use of bed and breakfast accommodation to house homeless families and young people. We were routinely finding councils exceeding the maximum time limits for placing families and young people in bed and breakfasts, and we highlighted the devastating impact this had on individual lives.

Since that time, some things have changed – but many have remained disappointingly familiar. The National Audit Office has said the breakdown of private tenancies is now the single biggest driver of statutory homelessness; this is a trend we have seen reflected in our casework too.

We have also seen the problems we identified in London four years ago start to spread. Last year we upheld complaints against councils in Berkshire, Sussex, Kent and Northamptonshire for example.

This follow-up report to *No Place Like Home* describes what we are seeing now when we investigate complaints about homelessness. Firstly, we highlight more stories of families left in unsuitable accommodation who are too often hidden behind the statistics. We also show the common things councils are getting wrong behind these cases.

Unsurprisingly, our cases show some people are still spending far, far too long in unsuitable accommodation – two and a half years in one case. We are also routinely seeing people housed in poorly maintained accommodation with significant damp or infestations.

It is not uncommon for us to hear about the health of families suffering due to extended periods in temporary accommodation. In one case, a woman's baby was repeatedly hospitalised because of poor cooking facilities and unhygienic rooms. The council had also made the family wait until they were evicted by bailiffs before accommodating them – something we've seen other examples of.

Most importantly, however, this report focuses on the importance of learning from things that have gone wrong to improve the lives of many more people. Where our investigations point to a procedural or policy issue at the root, we recommend ways to help councils make improvements.

Often seemingly small things can make a massive impact. For example, a council changed a standard letter given to everyone it accommodates after we found it was not properly telling people of their right to review the suitability of their accommodation.

We currently receive around 450 complaints and enquiries about councils' homelessness services each year. Of those we investigate, we uphold approximately 70%. This is significantly higher than the 53% we uphold for all other investigations.

On a more positive note, although the issues we see through our casework persist, our findings are not always against the same councils in which we found problems in the past.



Some authorities have made great efforts in recent years to plan ahead and address this problem. Councils we criticised four years ago have, in certain cases, been successful in reducing the number of people placed in unsuitable temporary accommodation. But despite those positive examples, we still see too many families left in situations which are simply unacceptable in modern society.

I hope this report helps to share the realities faced by those people whose cases we have investigated. And above all, I hope it demonstrates how critical it is to listen to these stories and learn from their experiences.

A handwritten signature in black ink, appearing to read 'M. King', with a stylized flourish at the end.

Michael King

Local Government and Social Care
Ombudsman

December 2017



Context

In April 2004, the government introduced legislation to limit the use of bed and breakfast accommodation for homeless families (*The Homelessness (Suitability of Accommodation) (England) Order 2003*). The law says bed and breakfast accommodation is not suitable for families or pregnant women unless no other accommodation is available and, even then, it must only be provided for a maximum of six weeks.

In 2010, the government introduced statutory guidance which said bed and breakfast accommodation is never suitable for homeless 16 and 17 year olds and councils should ensure

they have a sufficient supply of accommodation options for homeless young people.

In October 2013, our report [*No Place Like Home*](#) highlighted an increase in the number of complaints we had received from homeless families and young people who had been placed in bed and breakfast accommodation for longer than they should have been.

Since we issued our report, complaints about homelessness have continued to grow slowly as a proportion of our work, and the rate at which we find fault has risen.



Common Issues

Use of bed and breakfast accommodation for families

The law says bed and breakfast accommodation is not suitable for families with dependent children, including those who are pregnant. However, councils can use bed and breakfast accommodation as a last resort – but only for a maximum of six weeks.

The six-week limit does not excuse councils from making continued attempts to find suitable accommodation during this period. We will find fault if families are placed in bed and breakfast for less than six weeks where we believe more could have been done to find alternative suitable accommodation. We expect councils to be able to demonstrate all options have been explored and there are genuine and effective strategies in place to limit and reduce the use of bed and breakfast accommodation.

Ben and Carrie's story

Ben and Carrie, and their two young children, were evicted from their private rented tenancy and the council placed them in bed and breakfast accommodation. The whole family lived in a single room and had to share cooking and washing facilities with other people, none of whom had children.

Ben and Carrie complained about the poor condition of the bed and breakfast shortly after moving in. They told the council the shower was out of use and the kitchen and toilets were in a poor state of repair. After a month, Ben and Carrie reported they had found cockroaches in their bedroom. The council reported the issues to the owner of the bed and breakfast but did not follow this up to make sure repairs were completed and the cockroach problem addressed.

Overall Ben and Carrie spent 26 weeks in bed and breakfast accommodation, which was 20 weeks longer than the legal limit.

How we put things right

Following our recommendations, the council:

- > apologised to Ben and Carrie
- > paid £1,750 to reflect the time the family had spent in bed and breakfast accommodation
- > changed its procedures to ensure complaints about repairs were properly followed up – especially around pest infestation.

Learning points: ensuring suitability and standard of accommodation

Any accommodation provided by the council under its homelessness duties must be suitable. This means the accommodation must be habitable and we expect councils to respond to any complaints about repair issues. Councils will often arrange for a contractor to supply the accommodation. However, the council is responsible for making sure the accommodation is suitable and so we will hold the council responsible for the condition of the property and response to repair issues.



Rebecca's Story

Rebecca approached the council when she was being evicted from her rented accommodation. Even though it agreed to accommodate her, the council said she would have to wait until bailiffs came to remove her, before it would provide her with accommodation. Rebecca has three children, including a baby with type 1 diabetes. Before she became homeless, Rebecca told the council she would need to monitor her baby's blood sugar levels regularly throughout the day and night and provide him with a carefully controlled diet to prevent him from becoming seriously ill. The council placed the family in bed and breakfast accommodation after they were evicted.

After Rebecca moved into the bed and breakfast, she told the council she was unable to manage her son's diet because she had no access to cooking facilities and could only feed the family with take away meals. Rebecca also said the accommodation was dirty and unhygienic and this was having an impact on her baby's health. The council insisted Rebecca complete a medical form so it could carry out an assessment of the suitability of the accommodation.

During this time Rebecca's baby contracted an infection and was hospitalised. The hospital said this was because of Rebecca being unable to control her baby's diet, and the unhygienic conditions in the property.

The council moved Rebecca between a number of different bed and breakfast places over the course of a year. The council's medical advisor said this was ok, despite not having examined the baby or his medical records. Doctors and consultants involved in the baby's care were writing to the council urging it to move the family as soon as possible to prevent damage to the baby's health. They also confirmed Rebecca had to be close to one of two hospitals, as these were the only ones with the right equipment for the baby if he became ill.

At one point, the family was placed in a council-owned hostel with shared cooking and bathing facilities. The family were on the third floor and the kitchen was on the ground floor. This had a significant impact on Rebecca's ability to manage her son's diet because she had to take all three children to the kitchen to cook, and this involved three flights of stairs as the lift was broken.

During the time Rebecca was in bed and breakfast accommodation her son was hospitalised several times with serious infections.

We found the council had plenty of opportunity to secure suitable accommodation for Rebecca and her family before she became homeless, but failed to do so. The council also failed to consider medical evidence Rebecca submitted about her baby, which was from medical professionals involved in her baby's care. Instead, it chose to rely on the opinion of someone who had never examined her baby, viewed his medical records or spoken to any professionals caring for him.

On balance, we found the living conditions were responsible for many, if not all of Rebecca's baby's admissions to hospital.



How we put things right

Following our recommendations, the council:

- > paid Rebecca £4,200 for the time the family spent in unsuitable accommodation and a further £1,500 for the impact on her baby's health
- > trained staff on suitable accommodation and the rights of review
- > reviewed its policies for those to whom it owes a housing duty, to ensure accommodation is secured before they are evicted by bailiffs.



Learning points: considering medical circumstances & acting on those threatened with homelessness

Councils have to provide suitable accommodation based on the individual circumstances of the homeless applicant and their family. This means councils must take account of the medical needs of a family when providing accommodation, including bed and breakfast accommodation.

Sometimes we see cases where councils will not offer accommodation or support to a family until they are evicted by bailiffs. This is against government guidance and significantly compounds the distress for the people involved. In these cases, the council is aware the person is going to be homeless and yet we see little evidence of forward planning, especially where there are specific needs that require consideration.

We are likely to find fault where families are forced to stay in accommodation until they are removed by bailiffs, and also where councils knew a family were due to become homeless but took no action until the last minute.



Patrick and Sara's story

Patrick and Sara have three children aged between five and nine. Both Patrick and Sara have health issues. After approaching the council for help when their landlord wanted to repossess their privately rented home, the family were placed in bed and breakfast accommodation. They ended up staying there for 38 weeks.

During their stay in the bed and breakfast the council offered them accommodation in another council area more than 60 miles away. The council had secured a number of properties in the area for the purposes of providing temporary accommodation. Patrick and Sara declined the offer as it would be too much of an upheaval to relocate the family so far away.

During our investigation, the council told us how the increasing disparity between private accommodation rents and what is affordable for low-income families has led to an increase in evictions from the private sector. It has also affected the council's ability to use private sector housing as temporary accommodation because landlords are increasingly choosing to rent to private sector tenants.

The council said it was trying to address this by reducing the demand for temporary accommodation, increasing the supply of accommodation, allocating temporary accommodation in a fairer way and offering alternative housing solutions. It also created a new Housing Strategy looking at new methods of procuring accommodation in the short, medium and long term.

Our investigation acknowledged the council was undertaking a range of measures to increase the supply of housing. But it was still at fault for leaving the family in bed and breakfast accommodation for more than six weeks.

How we put things right

Following our recommendations, the council:

- > apologised to Sara and Patrick
- > paid £2,500 for the 32 weeks they had stayed beyond the six-week limit

As we completed our investigation, the family moved into a suitable home the council found for them.

Learning points: out-of-area placements

London councils often tell us it is increasingly difficult to source temporary accommodation within their areas. So many are increasingly offering homeless families accommodation outside their areas.

In 2015 the Supreme Court said councils should have up-to-date policies for procuring and allocating temporary accommodation. And the policy should explain what factors will be taken into account when offering households accommodation in another area because of a shortfall of temporary accommodation in-borough.



Vinda's story

Vinda and her husband were placed in a single room in bed and breakfast accommodation which they had to share with their teenage son and daughter. The family had access to their own bathroom but had to share a single kitchen with five other families. Vinda complained to the council about the condition of the property shortly after moving in. She said the bedroom was infested with bed bugs and the bedding provided was covered in stains. Vinda told the council the kitchen was filthy, the fridge was filled with rotting food and there was only one working ring on the hob to be shared between five families.

The council accepted a full housing duty to Vinda and wrote to her to tell her she had the right to request a review of future offers of accommodation. However, it failed to tell her she had the right to request a review of the suitability of the current bed and breakfast accommodation. When Vinda contacted the council to say her family had been in the bed and breakfast for over the maximum time allowed, she was told it was not against the law for the council to keep families in such accommodation for longer than six weeks.

Vinda complained to the council about the length of time she and her family had been in bed and breakfast and the condition of the property. The council said the bed and breakfast was suitable temporary accommodation for the four months the family had been living there, but failed to respond to Vinda's complaints about the condition of the property.

Our investigation found the council at fault for the length of time Vinda and her family had been left in bed and breakfast accommodation and its failure to advise her of her right to request a review of the suitability of the accommodation. We also found the council failed to respond to complaints about the condition of the property.

How we put things right

We found the council had housed a number of families in bed and breakfasts for longer than six weeks. It agreed to take action to move families before the six-week period was reached. We were pleased to see it managed to significantly reduce the amount of families exceeding the limit.

It also changed its approach to ensure families are advised of their right to request a review, and put processes in place for responding to complaints about the condition of accommodation.

The council paid Vinda £2,325 for the injustice caused to her family.

Learning points: advising people of their review rights

Once a council accepts a full duty to a homeless person, that person has a right to a review of the suitability of their accommodation. If they are unhappy with the outcome of the review they can appeal to the county court. We have found that some councils are failing to advise people of their rights.



Common Issues

Other unsuitable accommodation

We receive some complaints where it is unclear whether accommodation is considered bed and breakfast or not.

The law defines what should be considered bed and breakfast accommodation. This is accommodation which is not separate and self-contained, and where some or all amenities are shared by more than one household – for example toilet, washing facilities, cooking facilities. There is no requirement for breakfast to be provided.

Susie's story

Susie is a single parent with four children between the ages of 5 and 17. She receives disability living allowance and uses crutches to walk. She also suffers from depression and asthma.

Susie became homeless from her private rented accommodation after restrictions on her welfare benefits meant she could no longer afford the rent. Susie asked the council for help and it placed her in bed and breakfast accommodation in a neighbouring council's area. The council informed Susie the accommodation was not suitable because it was bed and breakfast, and that it was looking for alternative self-contained accommodation.

The family had two bedrooms in the basement of the property with a kitchen and bathroom on the same floor. There was another en-suite room on the first floor. There were steps down to the basement rooms from ground floor level and steps up to the first-floor room.

Three medical professionals wrote to the council with concerns about the difficulties the family was facing because of where they were living. This included disruption to the children's school work and a worsening of Susie's mental health. The council could not prove to us it had responded to these letters or considered a Medical Assessment Form which Susie completed.

During her stay, Susie made several complaints about damp, leaks and smells. The council later confirmed a room was uninhabitable. The family spent two years and four months at this accommodation before eventually moving to a four-bedroom home.

When we investigated, the council told us the accommodation was not bed and breakfast because Susie had sole use of the bathroom and kitchen facilities. Susie's solicitor argued it was, because the rooms were split over separate floors of the building and staff had access to the kitchen facilities.



We found the council failed to carry out a review of the suitability of the accommodation. If it had, it was likely to have been found unsuitable. This was because:

- > the rooms were two floors apart so Susie would either be separated from one or more of her children, or they had to share crowded conditions;
- > the kitchen and bathroom doors needed to be kept locked to stop the rooms being used by other people;
- > the family had physical and mental health problems;
- > two children were at key stages in their education;
- > there were repeated problems with damp and leaks;
- > the conditions had a psychological impact on the children over a long period of time;
- > the council's medical adviser would have recommended the accommodation should have no more than one flight of stairs.

We did not need to resolve the dispute between the council and Susie about whether the accommodation should have been classified as bed and breakfast in order to find the accommodation unsuitable. This is a question of legal interpretation which would be for the courts to determine

How we put things right

Following our recommendations, the council paid the family £4,200 to recognise the distress of being left in unsuitable accommodation for so long.

Learning points: defining temporary accommodation

Even though accommodation may not meet the statutory definition of bed and breakfast, we still expect councils to consider whether it is suitable to meet the needs of families and young people who require help.



Putting things right

How we remedy injustice

Where a council is at fault for placing a family or young person in bed and breakfast accommodation, we will recommend it takes action to put right any injustice suffered by the household. This may involve asking the council to offer the family alternative accommodation which meets their needs. Such action would remedy the continuing injustice suffered by the household.

We often recommend the council pays a financial remedy. The amount we recommend will depend on the facts of each case and in some cases it may be significant. Relevant factors include:

- > the length of stay in bed and breakfast accommodation
- > the facilities available to the household in the accommodation and whether any facilities are shared with other residents
- > the size of the household and space available for their use
- > the impact of the accommodation on the household, taking account of age, health and personal circumstances
- > any additional costs incurred by the household because of their prolonged stay in bed and breakfast accommodation

Where we believe problems may be the result of systemic faults in a council's approach, our recommendations will include procedural change, for example to simplify or clarify what should happen, or to promote better communication. Where appropriate, we also recommend staff training in existing or new procedures and protocols.

Practical examples of action taken by councils following our investigations include:

- > changing standard letters to inform homeless applicants about their right to request a review of the suitability of their temporary accommodation
- > ensuring homeless applicants are given new notification of their right to request a review of their accommodation every time the council provides new temporary accommodation
- > amending procedures for dealing with concerns about conditions in temporary accommodation to ensure they are responded to properly
- > putting in place a clear procedure to intervene in complaints about disrepair issues in temporary accommodation when they are not adequately resolved by the contracted provider
- > improving liaison between homelessness and other council services (such as children's services) when dealing with families placed in temporary accommodation.



Promoting good practice

While remedying the individual injustice is an essential element of what we do, we also have a wider role to help councils tackle systemic failures and improve the way they deal with complaints. In many cases we will ask local authorities to consider whether other people are currently, or could be, affected by the same issues raised in a complaint.

Drawing on findings from our casework, we have identified a number of recommendations based on examples of good practice in councils. The following is not an exhaustive list but sets out some of the positive steps councils can take:

- > Notify families and pregnant women placed in bed and breakfast accommodation that the law says the accommodation is unsuitable and that they must be moved within six weeks
- > Provide affected families with details of the council's complaints procedure and the right to come to the Ombudsman for an independent investigation if they remain unhappy
- > Maintain clear records of what has been done in individual cases to source alternative suitable accommodation while families are in bed and breakfast accommodation
- > Have clear procedures to prioritise the sourcing of alternative suitable accommodation for families in bed and breakfast within six weeks of placement
- > Ensure families are provided with a financial remedy when placed in bed and breakfast for longer than necessary. Our ['Guidance on remedies'](#) provides details of our approach to this
- > Where there are families in bed and breakfast more than six weeks, councils should have a strategy in place to tackle the problem within a reasonable timescale
- > Regularly inform elected members of the council's performance for placing families and young people in bed and breakfast accommodation
- > Ensure the council has a range of targeted and co-ordinated measures to prevent homelessness arising in the first place
- > Have arrangements in place for co-operation between homelessness services and children's services in all cases involving families and young people.



Encouraging local accountability - questions for scrutiny

Councils and all other bodies providing local public services, including councils' homelessness service, should be accountable to local people. The Local Government and Social Care Ombudsman was established by Parliament to support this process. We want to share learning from complaints brought to us with locally elected councillors who have the democratic mandate to scrutinise the way local authorities carry out their functions and hold service providers to account.

We believe complaints raised by the public can be an important tool and source of information to help councillors identify issues affecting local people. Complaints can therefore play a key part in supporting local public service scrutiny.

Our experience of the types of complaints typically raised about local authority use of bed and breakfast accommodation, has highlighted a number of key questions elected members could ask officers when scrutinising homelessness services:

- > How many families have been in bed and breakfast accommodation for more than six weeks?
- > How many 16 and 17 year olds have been placed in bed and breakfast accommodation?
- > Does the local authority routinely place homeless people outside its area? Does it have a published policy to explain in what circumstances it will do so?
- > Does the local authority have a homelessness strategy and how is its implementation being assessed by senior officers?
- > How does the local authority intend to meet its duties under the Homelessness Reduction Act 2017?
- > What complaints have been raised about homelessness services, what were the outcomes and how has the council improved its services as a result?

We would encourage councillors to look at the issues highlighted in this report, as well as the complaints raised locally, to ensure their local authority homelessness service receives proper and effective scrutiny and those services are accountable to local people.



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