

Section D: Housing

D1: Allocation

Promise of rehousing broken – applicant excluded from waiting list – misleading report to sub-committee – breach of agreement with police over release of information on criminal convictions – inadequate appeal procedure against suspension from housing list

1. Mr Dibdin complained that a council unreasonably suspended him from the housing waiting list. He also complained the council inappropriately asked the police for information about him without first seeking his permission. Mr Dibdin and his family continued to live in unsuitable conditions where they were subject to harassment.

What happened

2. Mr and Mrs Dibdin had two children. They lived in a housing association property. They applied to join the council's waiting list and asked to be allocated a three bedroom house. Their application was supported by Mr Dibdin's probation officer, the family's doctor, their health visitor, and their solicitor. All of them referred to the Dibdins' difficulties with their neighbours and the latter two mentioned harassment of the family and threats to the children.
3. A housing officer told Mr and Mrs Dibdin that a house had been earmarked for them and they would be offered it as soon as necessary repairs had been done. Before a formal offer was made, a second housing officer had a conversation with an officer from the social services department in the course of which he was told that Mr Dibdin had assaulted a social worker. The second housing officer telephoned a contact in the police force and was told that Mr Dibdin had a number of convictions extending back many years. The second housing officer thought information about

Mr Dibdin should be put to the housing sub-committee and he prepared a report recommending that Mr and Mrs Dibdin should be suspended from the waiting list for 12 months.

4. A few days before the sub-committee met, the housing department received a note from a senior social worker saying that he understood there were problems about the Dibdins' application for rehousing and that these were connected with events at a child protection conference earlier in the year. The social services officer explained that at that earlier conference some professionals had put forward scathing information about Mr and Mrs Dibdin based on what he referred to as fairly superficial contact with them. It was Mr and Mrs Dibdins' first experience of a child protection conference and they were concerned that they had not been able to see the professional reports in advance. They had become agitated and adopted an aggressive manner. There was no physical assault but they were subsequently arrested by the police. The professionals who had attended the conference thought that whilst the behaviour of Mr and Mrs Dibdin was not acceptable it was at least understandable and they all supported the request for rehousing.
5. The sub-committee approved the recommendation to suspend the Dibdins' rehousing application for 12 months.
6. The Dibdins appealed, but their appeal was not upheld.

The decision to present a report

7. The Ombudsman said that a suspension from the housing list for a year was not a trivial matter and it was important that the system to deal with this was reasonable and fair. The Ombudsman did not consider that the system being operated by the council was reasonable and there were some aspects of the way in which Mr Dibdin's specific case was dealt with which were of grave concern.
8. The decision to take Mr Dibdin's housing application to the housing sub-committee was provoked by what seemed to be a casual conversation between two officers, neither of whom had any direct experience of Mr Dibdin. Moreover, there seemed to have been no attempt to check the actual facts of the matter with the social services officers most closely involved with the Dibdins. That was maladministration.

Flawed reports

9. The allegation of assault at the child protection conference was mentioned both in the first report to the sub-committee and later on appeal, even when it should have been clear to officers that there had been no physical assault. There was no indication that this fact was put to or understood by members. The housing department received information from social services which put the incident in context. This information was not passed on to the housing sub-committee. It was at the least a serious omission, and one which amounted to maladministration.
10. Both reports which went to the sub-committee were seriously flawed. There was no information given about the Dibdins' reasons for wanting to move. Officers made no effort to verify Mr Dibdin's claims of harassment or

even to consider whether this was relevant to the sub-committee's consideration of their case. They also made no assessment of the impact any harassment was having on the Dibdins' two small children in spite of the fact that there was a letter from the health visitor outlining the impact she thought it was having. Letters of support from both inside and outside the council were not provided with the sub-committee reports and neither did the reports mention them. Members of the sub-committee were therefore not in possession of all the relevant facts when they made their decisions and this was maladministration.

11. The first report referred to councils denying access to the housing register to some categories of applicants, and particularly those convicted of sex offences against children. Mr Dibdin had no record of any such offences and no allegations of that nature had been made against him. The Ombudsman considered that the inclusion of the paragraph which mentioned sex offences against children was extremely prejudicial to Mr Dibdin and, in the circumstances, irrelevant.
12. In addition, there was a reference to possible adverse reaction from neighbouring families because of the Dibdins' behaviour which was either misleading or ambiguous. It could be seen as implying that the Dibdins would cause trouble. There was no evidence to suggest that the Dibdins had ever initiated problems with neighbours.

Information from the police

13. The information sought from the police was for a purpose not covered by the agreement between the council and the police governing the exchange of information about the criminal records of local residents. Under the terms of that agreement the council undertook to use the information only

for the purpose of ascertaining whether there was sufficient cause for the council to institute proceedings against an occupant and pursuing such proceedings in the civil courts.

14. Not only was the information obtained improperly, but written confirmation was not obtained until the day before the second report. The first report was based therefore on an unsubstantiated conversation with an officer of social services and a casual telephone conversation with the police. When the police did finally provide written information, the report which was considered by the sub-committee on the appeal did not reflect it accurately but reiterated the incorrect information which had appeared in the first report. That was maladministration.

15. The second report implied that the police had confirmed that an assault took place at the child protection conference when they had not done so.

16. Both reports were extremely misleading. The Ombudsman said:

"Many of the facts are simply wrong, many relevant facts are omitted, irrelevant matters are introduced and others are presented so ambiguously as to bear only the slightest relationship to the truth. This is maladministration."

Unfair system

17. The Ombudsman was also concerned that the system for considering difficult cases appeared inherently unfair. The Ombudsman said:

"If an applicant to the housing register goes to the trouble of soliciting support from other professionals – GPs, health service, probation service, social services, etc – then the least he should expect is that their views are taken into account."

But the applicant had no influence on the information which was considered

by the sub-committee and, without prior access to the report, had no chance to refute any of the statements made about him.

18. The appeal was considered by the same group of people as made the initial decision. The Ombudsman said that the appeal should have been heard by a body not immediately involved in the original decision and the applicant should have had the opportunity to present his case properly. The council's arrangements did not accord with natural justice or good practice.

Outcome

19. The Ombudsman considered that without the maladministration Mr Dibdin and his family would have been rehoused. To remedy the injustice, the council was recommended to rehouse Mr Dibdin as quickly as possible, and to pay him £500 in recognition both of the anxiety he suffered and his sense of grievance that misleading information about him had been presented at committee.

20. The council was also recommended to:

- review its procedures;
- ensure that full and accurate information was provided for members to enable them to make informed decisions;
- ensure proper professional liaison was undertaken between housing and social services over the needs of families who required support from both departments;
- ensure that information on criminal convictions of prospective tenants was not sought without their knowledge or consent; and
- ensure that it abided by the terms of the agreement with the police.

(Report 97/C/3827)

D2: Council housing repairs

Damp – delay – obligation to make good internal decoration following repairs

1. Mrs Allcott complained that a council delayed in carrying out repairs to her home.

Damp

2. Mrs Allcott was a tenant of the council. She complained to the council on several occasions over a period of more than two years that her house was damp. She said that the council surveyed the house and promised to carry out work to remedy the extensive rising damp in the downstairs rooms and to improve ventilation to the upstairs rooms. The work was not carried out and Mrs Allcott complained to the Ombudsman. Mrs Allcott said that the council had explained that there was no money available to do the necessary work to remedy the dampness. After Mrs Allcott complained to the Ombudsman the works were carried out reasonably quickly.
3. The council's duty as a landlord was to keep and put into repair the structure of its tenants' homes and this included a duty to carry out repairs of this nature. The delay in carrying out essential repairs was maladministration.

Redecoration

4. The damp proofing work involved stripping plaster from the walls. When this had been completed, all the affected areas required decorating. Mrs Allcott spent £405 on redecoration of those parts of the house where the new damp proof course had been installed. She asked the council to reimburse her. The council offered to pay her £152 which it said was the standard amount under its policy, based on the number of rooms redecorated.
5. The Ombudsman said that Mrs Allcott was entitled in law to be reimbursed for reasonable expenses in making good the decorations to her home following the repairs carried out by the council. The failure to reimburse her costs was maladministration.

Outcome

6. The Ombudsman recommended that the council should pay Mrs Allcott £750 in recognition of the injustice caused by the delay in carrying out repairs; should reimburse Mrs Allcott in full for the redecoration costs; and should take steps to ensure that officers were aware of the council's obligations to make good decorations following repairs or to compensate tenants for the cost.

(Report 97/C/779)

D3: Council housing repairs

Repairs following a fire – delay

1. Mr Walter complained that a council delayed in carrying out repairs to his home following a fire.
4. It was not until 18 months after the fire that the repair work was completed. Officers had visited Mr Walter immediately after the fire and raised orders quite quickly but then cancelled them. Orders were raised again five months later and marked 'very urgent'. But they were not acted upon.

Events

2. Mr Walter was a tenant of the council. A fire at his home damaged all three bedrooms, the bathroom, airing cupboard and landing. Mr Walter said that the council told him the repairs would be done as a priority. But after a year they had not been done so he complained to the Ombudsman.
3. The Ombudsman's investigator visited Mr Walter and noted extensive fire damage. One room was still out of use. There was no window in the room but the window space had not been properly boarded up. There was no door to the room and as a result the upstairs of the house was cold and draughty.

The Ombudsman's view

5. The Ombudsman said that the investigation had revealed a sorry catalogue of inaction. The council's failure to respond properly to Mr Walter's complaints for more than a year was maladministration. He had to live for considerably longer than necessary in dreadful conditions.
6. The council was recommended to pay to Mr Walter compensation of £1,500.

(Report 97/C/4222)

D4: Grants

Unfit houses – failure to distinguish between an enquiry and an application – adequacy of information given to enquirers

1. Four people complained about the way a council dealt with their renovation grant enquiries.
2. In one case the Ombudsman found no maladministration. In another the Ombudsman found maladministration which caused injustice, but also found that the council had already taken satisfactory action to remedy that injustice. In the other two cases, the Ombudsman found injustice as a result of maladministration (see paragraphs 3-10 below).

A case of delay

3. Mr Ansty enquired about a housing renovation grant in May 1991. The council knew from the outset that his means were such that he would qualify for a 100 per cent grant if the house were unfit. In September 1992 it inspected the house and classed it as 'high priority'. But high priority seemed to mean little because it was not until 18 months later that the council invited Mr Ansty formally to apply for a grant. By that time the

maximum amount of grant which could be paid had been reduced from £50,000 to £20,000. The cost of works at Mr Ansty's house was estimated to be more than £37,000. Mr Ansty could not afford to meet the costs that would not be grant aided.

4. In view of Mr Ansty's high priority status, the Ombudsman believed that the council should have invited him to proceed with the grant application soon after its inspection of September 1992. Had it done so, it was clear to the Ombudsman, Mr Ansty would have applied in good time to have qualified for a grant before the grant maximum was reduced and he would therefore have proceeded to make his house fit. It seemed to the Ombudsman that Mr Ansty had lost the opportunity to renovate his house for some three years and he had to live elsewhere in the meantime.
5. The Ombudsman recommended the council to arrange a survey of Mr Ansty's house to establish the most satisfactory course of action. If that was found to be renovation, the council should offer Mr Ansty a discretionary grant to enable the property to be renovated. If the most satisfactory course of action was a closing order, the council should make an *ex gratia* payment to Mr Ansty equivalent to the grant he would have received if it had been approved before the reduction of the maximum sum for grants, plus interest on the sum since that time at the county court rate.
6. The council was also recommended to pay Mr Ansty £2,000 as compensation for his lost opportunity and the inconvenience to which he had been put over a three-year period, and a further £250 for his time and trouble in pursuing the complaint.

A failure in communication

7. Mr Binley sent the council a grant enquiry form in November 1993. The council visited and assessed his priority under its scheme for determining the order in which enquiries should be dealt with.

8. The Ombudsman did not criticise the council for having a queuing system for grant enquiries, but he said:

"When rationing resources in this way it seems to me vital that the council should have advised people who wanted grant aid just what the council's queuing system was and what the individual's rights were under law."

9. The Ombudsman had no doubt that Mr Binley did not know the significance of the distinction the council made between an enquiry and an application. The council failed to explain it. Nor did it explain the consequences for him of waiting until the council invited him to make an application. Instead the council required him to complete one enquiry form after another: a total of five in all. The council's failure to inform Mr Binley fully about its queuing system and its implications for him was maladministration.

10. The Ombudsman concluded that Mr Binley lived for about a year longer in unfit conditions than he need have done had the council properly explained matters to him. The Ombudsman recommended the council to pay Mr Binley compensation for this.

(Report 97/B/524 etc)

D5: Homelessness

Owner occupiers – statutory overcrowding – medical assessment

1. Ms A and Mr B complained about the way a council considered their request for housing.
2. Ms A and Mr B lived with their two children in a studio flat. This comprised one bed-sitting room/kitchen with a separate bathroom/toilet and measured 3.6 metres wide and 7.7 metres long. They were assessed as being statutorily overcrowded. The eldest daughter had a severe kidney disorder.
3. The couple applied to go on the council's waiting list for housing as they considered that the flat was unsuitable for their needs. The council refused their request because they were owner occupiers.
4. Six months later Ms A asked the council to review its decision and sent in details of her daughter's kidney complaint. The council took no further action. Ms A continued to write to the council seeking help but it was only two years later that the council referred the family for medical assessment. As a result, the council decided that the combined effect of the child's illness and the statutory overcrowding made it unreasonable for the family to occupy their existing accommodation. The family could therefore be regarded as 'homeless at home'.
5. The council accepted that if it had reviewed the position when Ms A asked for a review, it was likely that it would have admitted the family to its waiting list. The family had had to live in unsatisfactory accommodation for almost two years and the council agreed to settle the complaint on the basis of compensation of £3,750.

(Local settlement 97/B/4344)

D6: Homelessness

Applicant with disability – failure to take into account individual needs when considering suitability of accommodation – failure to ask applicant if she used a wheelchair – delay in establishing rehousing requirements

1. A legal advice centre complained on behalf of Mr and Mrs Green that a council allocated them accommodation which could not be adapted to meet Mrs Green's needs, and which was therefore unsuitable for them when they were homeless.
2. Mr and Mrs Green applied for rehousing by the council because they were to be evicted from a house which was owned by their daughter, but was being repossessed by the mortgage lender. Their adult son, George, was included in the application.
3. The council's social services department assessed Mrs Green's needs for community care. An occupational therapy assistant recorded that Mrs Green had angina, osteoporosis and crushed vertebrae, and was in constant pain. Mrs Green

What happened

2. Mr and Mrs Green applied for rehousing by the council because they

had problems with climbing the stairs in the house and could not use the bath even with a bath board or step. Mrs Green's GP confirmed her medical condition and limited mobility.

4. The council accepted that Mrs Green was homeless, in priority need, not intentionally homeless and had a local connection with the area. It said that it would provide secure accommodation. The family were nominated to a housing association for a ground floor flat in a small block. Mr and Mrs Green liked the flat but were concerned about the narrow hall and other aspects of the design which would make it difficult for her to get around. The association's housing officer also felt it was unsuitable. The council's medical adviser considered adaptations could be carried out, including the installation of a shower, and that the accommodation was suitable for the family's needs. Mr and Mrs Green appealed but the appeal was not upheld.
6. The council's housing officers had not known that Mrs Green sometimes used a wheelchair. The housing association told the council about this after Mrs Green's appeal, but before she moved into the flat. Mrs Green said she had not appeared in her wheelchair at the appeal because the interview room could not accommodate it and she did not realise that it was important to tell anyone about it. The Ombudsman said that illustrated how easily the needs of people with disabilities could be misunderstood.
7. When the housing association told the council Mrs Green used a wheelchair, the council's housing officers did not ask Mrs Green about it. Instead they decided to ask social services (who did not have up-to-date information) and the Red Cross and local hospitals. The Ombudsman accepted that the council was entitled to seek substantiation of medical needs affecting housing, but said that not to ask Mrs Green directly whether she used a wheelchair was unfair.

The Ombudsman's view

5. The Ombudsman said that the council's duty was to secure accommodation which was suitable for Mrs Green's individual needs. The Ombudsman was not satisfied that the council's assessment of the housing association flat properly considered whether the flat would meet the particular problems caused by Mrs Green's restricted mobility. On her appeal form, Mrs Green said the flat was too small, but the council considered only whether it had enough rooms, not whether Mrs Green could get about in it. Once she had moved into the flat, the council treated her needs for adaptations as low priority even though adaptations were crucial to the council's view that the flat was suitable.
8. Later the council accepted that the flat was unsuitable. It then took some six months to establish the size and type of property for which Mrs Green should be considered.

Outcome

9. The Ombudsman concluded that the council's faults amounted to maladministration. If the council had properly assessed Mrs Green's needs before she was offered accommodation, and if she had been asked about her wheelchair use when the housing association referred to it, the Ombudsman had no doubt she would have given the council full information about it. The Ombudsman considered it likely that, at that point, the council would have withdrawn the offer while it clarified the position. It

was also likely that Mrs Green would have been nominated for accommodation suitable for wheelchair users and she would have been rehoused in suitable accommodation some two-and-a-half years sooner.

10. The Ombudsman noted that the council had revised its procedures and made changes which should prevent the recurrence of similar problems. The

Ombudsman recommended that the council should pay Mrs Green £1,500 in recognition of the distress and inconvenience she suffered as a result of having to live for longer than necessary in accommodation which was not suitable for her needs.

(Report 95/A/2575)

D7: Introductory service

Council scheme to introduce prospective tenants – information for landlords

1. Mr Smith was a landlord and he complained that a council failed to provide him with relevant information about a prospective tenant.

What happened

2. The council's homelessness unit had a service for putting people who were looking for accommodation in touch with private landlords who were looking for tenants. Mr Smith had used this service on a previous occasion and the tenancy worked reasonably well.
3. Mr Smith's complaint was about the next time he used the service.
4. The council was contacted by Mr Bell, who was seeking help with housing. He explained that he had had a council tenancy in another area where he had been involved in drug dealing, theft and handling stolen articles. He wanted to change his way of life and moved back to the council's area where he was born and still had family connections. He and his three young children were living in a one bedroom

flat. The family's social worker supported the request for help with housing.

5. The housing officer visited Mr Bell. She offered to see whether she could find him accommodation through the council's scheme. As a result, Mr Bell contacted Mr Smith and there was some discussion between them and the housing officer about financial matters. Mr Smith accepted Mr Bell as his tenant for six months.
6. After a month Mr Smith began to receive complaints from neighbours about Mr Bell's occupation of the house. The neighbours complained of unsavoury characters banging and kicking on doors at all times of the day and night. They complained that the children were causing a disturbance as late as 1.30 am and said that the police had been called five times. Mr Smith warned Mr Bell about his behaviour and later said that he intended to evict him. Mr Bell left the property. Mr Smith said that the house was left in a very unsatisfactory state. He held the council responsible and

expected it to pay for repairs. The council said it had no responsibility for tenancies arranged through the introductory service and that this was made clear in the notes for prospective landlords.

The Ombudsman's view

7. The Ombudsman commented that the council's introductory service provided an imaginative and potentially very useful means of bringing together people who were looking for accommodation with landlords who were looking for tenants. Because the service was run by the council's homelessness unit, the council was likely to know details about the personal circumstances of some of the prospective tenants. The council was in fact obliged to make enquiries into the circumstances of people who applied to it as being homeless or threatened with homelessness. This information was obtained solely for the purpose of the council's statutory duties and should not be disclosed without the consent of the person to whom the information related.

8. The Ombudsman said:

"It seems to me that this can pose an ethical dilemma for the officers who operate the introductory service. On the one hand, they owe it to the prospective tenant to respect the privacy of information given in confidence. On the other hand, if they are introducing someone to a prospective landlord, they owe it to the landlord to make the introduction in a fair and open way. So, as this case illustrates, there can be a conflict of interests."

9. The Ombudsman recognised that the council was anxious to try to help Mr Bell and his children find suitable housing, but he was not satisfied that it properly considered Mr Smith's interests. The Ombudsman concluded

that the council should have asked Mr Bell for his consent to tell Mr Smith about the reasons why he left his council accommodation elsewhere. The council's failure to ask Mr Bell for consent to disclose the information was maladministration. If Mr Bell had refused consent, it would have been reasonable for the council not to proceed with the introduction.

10. Mr Smith pointed out that the council's introductory notes for landlords included the phrase:

"When a suitable tenant is found the landlord is contacted"

He said that this implied that the council would contact the landlord when it had found a person who was personally suitable to be the tenant. The council said that the expression 'suitable tenant' referred to whether the family was the right size for the property. The Ombudsman agreed that the phrase was ambiguous but had to be read with the statement that the council would take no responsibility for the condition of the property or the behaviour of the tenants whilst in the property.

Injustice

11. The Ombudsman considered it reasonable to expect landlords to take sensible action to protect their own interests. Mr Smith did not ask Mr Bell for references; nor did he ask him how he came to be in his particular circumstances. The Ombudsman was not satisfied that Mr Smith did what he could reasonably be expected to do in order to safeguard his own position. Moreover, the council did not lead him to expect that it would manage the property when Mr Bell became the tenant.

12. The Ombudsman concluded, therefore, that the anxiety, expense and trouble

Mr Smith experienced could not be attributed in full to the maladministration. He considered, however, that the council had contributed to Mr Smith's difficulties and that it would be fair for the council to meet part of Mr Smith's costs. He recommended a sum of £600 which would also take account of Mr Smith's time and trouble in bringing the complaint, and his distress.

Future arrangements

13. The Ombudsman also recommended that the council should review its notes for landlords in the light of the report, give written guidance to its staff about the disclosure of information about prospective tenants' personal circumstances, and make clear to landlords its policy on the disclosure of such information.

(Report 96/A/5135)

D8: Management

Disposal of belongings after death of tenant – failure to deal properly with a request to view security video tape

1. Ms Kanuwali complained that a council failed to deal properly with the disposal of her son's belongings following his death, and with her request to view the tapes of the security video for the block of flats in which he lived, taken on the day he died.

What happened

2. Ms Kanuwali's teenage son had been rehoused by the council and allocated one of the council's outreach workers to help him settle in and live independently. Some two months later, when Ms Kanuwali visited the flat, she found the door open and her son dead.
3. A post-mortem was required and an inquest was held some months later. An open verdict was returned.
4. After the inquest Ms Kanuwali asked for help from the social services department with various things, including transportation to move

her son's belongings. But when she and the outreach worker visited the flat they found that it had been cleared and the locks changed.

Disposal of possessions

5. The Ombudsman said that it would have been a simple matter for the council to find Ms Kanuwali's address, for example by asking the outreach worker. But:
 - the council failed to contact her about her son's possessions as required by its own policy and by legislation;
 - no evidence was found that the council sent a notice to quit to Ms Kanuwali as next of kin at her address and, on the balance of probability, the Ombudsman considered it likely that the council did not send her the notice; and
 - the council failed to take an inventory of the belongings left in the flat.

The Ombudsman said those faults amounted to maladministration.

6. Some years earlier the council had accepted the findings of an earlier report on a complaint about the termination of a tenancy and the disposal of the tenant's belongings. It had agreed to review its practice for terminating tenancies to ensure that officers were aware of the written procedures, and to ensure that an inventory was drawn up and signed by those present before the accommodation was cleared of its contents. The Ombudsman found no evidence that the council had acted on this undertaking by the time of the events involving Ms Kanuwali. That omission, too, was maladministration.

The security camera

7. Ms Kanuwali felt that there might have been more to her son's death than was discovered by the police. She said he was having problems with other youths who were demanding money from him. She wanted to look at the tapes from the security camera in the foyer of the block of flats in which her son lived, to see whether he had come into the block with any other person, or whether she recognised anyone who came in on the day of his death.
8. The council declined her request with the explanation that recordings could only be viewed by council staff. Ms Kanuwali understood from her solicitor that, according to the police, the tapes were used in rotation and those for the day of her son's death had been destroyed. Ms Kanuwali considered that the council should have allowed her to see the tapes. She was confused about whether her request was refused because it was not the council's policy to make such tapes available or because the tapes had been destroyed.
9. The Ombudsman accepted, from what the police had said, that it was likely that by the time Ms Kanuwali asked to see the video tapes, they no longer existed. However, the council's failure to consider her request properly and recognise that it might be an exceptional one, added to her distress.

Injustice

10. The Ombudsman said it was understandable that Ms Kanuwali found it difficult to deal with collecting her son's possessions soon after his death. In any case she understood, rightly or wrongly, that the council had been told to leave the flat as it stood until after the inquest. It was clear that there were possessions of value in the flat at the time of her son's death. The Ombudsman could not say with any certainty what had happened to them or what was in the flat when it was cleared. But because of the council's failings Ms Kanuwali was not involved in the clearance of the flat. She was not given the opportunity to retrieve any of her son's possessions, in particular those items which, while not of any monetary value, were of great sentimental value to her. When she tried to recover the possessions after the inquest she experienced the shock and distress of finding that they had gone.
11. The Ombudsman recommended that the council should pay Ms Kanuwali £1,000; and that it should establish a policy on security video tapes, which made clear how and for how long they were to be stored, who could have access to them, and how to deal with requests for access in exceptional circumstances.

(Report 97/A/2375)

D9: Nuisance from neighbours

Operation of disability harassment panel – unfairness – operation of complaints procedure

1. Mrs Hope complained that a council did not properly deal with the complaints of neighbour nuisance made by her and her husband, and that it failed to take effective action against their neighbours, but decided instead to take legal action against Mr and Mrs Hope.

What happened

2. The Hopes were owner occupiers. Their neighbours, the Greens, were tenants of the council. One of the children of the Green family suffered from a rare disorder.
3. Mr and Mrs Hope made complaints to the council about offensive conduct by their neighbours over a period of some three years. They asked the council to mediate between the two families. The council approached Mrs Green about mediation but she refused it. Council officers advised Mrs Hope that, in the absence of any agreement to mediation, there was little they could do, and suggested that she should seek legal advice if the problems continued.
4. Mrs Green made a number of complaints about Mrs Hope and her family. The Green family contacted a local voluntary group which worked on behalf of people with disabilities and which acted as adviser to the council on disability issues. The chair of the group agreed to act as advocate for the family and asked the council to take action against the Hope family for their harassment of a child with disabilities.
5. A senior housing officer decided that, because the complaint from the voluntary group appeared to be about a family with a disabled member suffering harassment and that it was,

therefore, different from the previous allegations, the appropriate course was to convene a meeting of the council's disability harassment panel. That panel decided that the council should seek an injunction against the Hope family to prevent them harassing the Greens.

6. The council took the same legal action against Mrs Hope's father.
7. Mrs Hope made a complaint to the council about the way in which the council handled the matter. Mrs Hope's father made a similar complaint to the council. Mrs Hope's complaint was not put to an independent investigator whereas her father's complaint was. Her father's complaint was upheld and he was offered compensation of some £1,000.

The disability harassment panel

8. The Ombudsman had a number of concerns about the way in which the council ran its disability harassment panel. Officers convened the panel without clarifying the role of the Green family's advocates, failed to take proper minutes of the meeting, apparently permitted advocates for only one party (the Greens) to participate in the panel's decision, and failed to obtain proper authority for the decision to take legal action against the Hope family. Those failures were maladministration.
9. The Ombudsman also expressed concern about the way in which the council had acted without taking into account the evidence from all parties. Despite the long history of complaints from Mrs Hope about the behaviour of the Green family, all of which was well known to several of the officers present at the panel meeting, no attempt was made to contact Mrs Hope before the

decision to take legal action. The view of the officer who convened the meeting was that the court was the appropriate forum for Mrs Hope to defend herself. But the Ombudsman said:

“The failure to consider evidence from both parties in these circumstances before deciding to proceed to legal action was simply unfair and therefore maladministration.”

10. The application for an injunction against Mrs Hope was heard in the county court and an adjournment was granted. The case was settled out of court on the basis that Mrs Hope agreed to give an undertaking not to cause a nuisance to Mrs Green and her family, on the understanding that the council would not seek costs.
11. Had the maladministration not occurred, the Ombudsman thought that the council would not have taken legal action against Mrs Hope. The injustice to Mrs Hope, therefore, was not only the distress of discovering the decision of the panel only when she was served with a summons, but also that she felt pressurised into agreeing to give a sole undertaking in court with the consequences which followed from that. In particular, the existence of such an undertaking must have made it more difficult for her when trying to sell her house.

The complaints procedure

12. The Ombudsman also looked at the way in which the council handled Mrs Hope's complaint about the way in which she had been treated. The council acknowledged that it did not respond to her within the timescale of its complaints procedure. That was maladministration.
13. Of greater concern, however, was the inconsistent decision taken not to put Mrs Hope's complaint to an independent investigator when her father's complaint – on essentially the same matter – was fully investigated. The Ombudsman was not persuaded by the argument that the council owed a greater duty to her father because he was a council tenant and in a household with a disabled member. The council had a duty to deal fairly with both tenants and private householders.

Remedy

14. The Ombudsman recommended that the council should pay £1,000 compensation to Mrs Hope for the injustice caused to her by its failures. The council had already reviewed its procedures.

(Report 97/C/3034)

D10: Nuisance from neighbours

Harassment – failure to follow anti-harassment policy – failure to keep proper records – failure to investigate complaints

1. Miss Meadows complained that a council failed to deal properly with her complaint that she and her elder daughter were being harassed by other residents on the estate where Miss Meadows was the tenant of a council flat. She said that as a result she and her daughter were very distressed, and her daughter left home. Miss Meadows was assisted by an adviser from 'ALERT', an agency funded by the council and which dealt with cases of discrimination, harassment and violence.

for council tenants. It was intended to extend the council's racial harassment procedure to include all forms of harassment. The report to the housing strategy committee noted the effects and gravity of all types of harassment and said that the council demanded swift and sensitive responses from staff dealing with such cases. But the policy and the thinking behind it was not drawn to the attention of neighbourhood offices, some of which were unaware of the policy, and no formal anti-harassment document was produced until 1997.

The harassment

2. The problems began in January 1996. Miss Meadows' elder daughter, Sarah, became involved with a group of adolescents living on the estate. She soon formed the view that the group were involved in glue sniffing and minor vandalism. She decided not to associate with them anymore. The group began congregating outside Miss Meadows' flat daubing graffiti about Sarah on the front door, banging on the door and throwing eggs and rubbish at the windows. Sarah was also subjected to verbal abuse from members of the group at school or when they saw her on the estate. There were threats to burn the flat and stab Sarah. There were unpleasant telephone calls. The mother of the gang's leader became involved and threatened Miss Meadows, and abused Sarah verbally. In January 1997 Sarah could stand the harassment no longer and left home to live with her aunt elsewhere.

The council's policy

3. In 1993 the council had agreed to introduce an anti-harassment policy

The complaint

4. Miss Meadows complained to the neighbourhood office in May 1996. The tenancy services officer visited her in June and asked her to keep a diary of incidents. She did so and sent it to the council in August. The tenancy services officer also visited the gang leader's mother on two occasions and contacted the police. When further incidents occurred, the tenancy services officer interviewed Miss Meadows and contacted the police again. But the Ombudsman noted that there were no notes on the council's files of these visits and there was no proper investigation of Miss Meadows' complaints. When her request for a transfer was reported to the housing panel in November 1996, the request was declined because of lack of evidence, and in particular the absence of police reports or witness statements. The panel again refused a transfer in January 1997, by which time Sarah had left home.
5. It was only after 'ALERT' became involved that witnesses were identified who could corroborate the incidents Miss Meadows was reporting. In March

1997 the council's solicitor asked the tenancy services officer to collect statements from the caretaker on the estate and any other persons willing to provide evidence. But the Ombudsman noted that the council was not able to provide copies of these statements. 'ALERT', however, was able to produce detailed written witness statements and a breakdown of incidents from Miss Meadows' diaries. When this information, together with a report from the council's solicitor, was presented to the housing panel in June, the panel agreed to give Miss Meadows an urgent transfer. The Ombudsman noted that many of the events referred to had occurred in 1996 before Sarah left home. The Ombudsman said:

"The council's failures to promulgate the policy it decided in 1993, to keep proper records and carry out a timely and proper investigation of Miss Meadows' complaint amounted to maladministration. I can see no reason why the council could not have collected information during the summer and autumn of 1996 in the same way as ALERT did in 1997."

Outcome

6. The council's maladministration caused Miss Meadows and her family injustice. The Ombudsman considered that, if the council had dealt with matters thoroughly in 1996, it was likely that the decision to award Miss Meadows an urgent transfer would have been reached sooner, and she would have been made a suitable offer of alternative housing sooner. Miss Meadows would have felt that the council was treating her difficulties with the seriousness they deserved and would have been spared the misery of having to remain on the estate for longer than she need to have done. Her daughter might still have felt compelled to go to live with her aunt, but the Ombudsman considered it likely she would have returned to her mother sooner.
7. The council was recommended to pay compensation of £750.

(Report 97/A/1181)

D11: Nuisance from neighbours

The need for proper record keeping – failure to investigate complaints – failure to consider all relevant factors in assessing transfer applications

1. Mr Vincent complained that a council failed to deal properly with his complaints about noise nuisance and anti-social behaviour by a neighbour in the flat below his. Mr Vincent claimed that, as a result of that nuisance, he had to move from his council home of 17 years and this involved him in unnecessary expense.

What happened

2. According to the council's file, Mr Vincent's first written complaint about noise nuisance was made on 2 February 1997. The letter said that music was played loudly at 12.45am on 31 January 1997 by another council tenant, Mr Berney, in the flat below. The council sent Mr Vincent a diary sheet and asked him to record the

noise nuisance so that the council could decide whether action needed to be taken against Mr Berney.

3. Mr Vincent wrote to the council again on 8 February 1997, enclosing the completed diary sheet with details of noise which he said had taken place between October 1995 and May 1996, with a gap until 31 January 1997. He said he had spoken to an area housing manager, and a housing officer, in the past about the noise from Mr Berney's flat but that nothing had been done. The council said that there was no record of any correspondence before February 1997 about any earlier problems Mr Vincent may have had.
4. The housing officer visited Mr Berney's flat on 28 February after several unsuccessful attempts to make an appointment. Mr Berney was not at home, although the officer had written to say she would be visiting on that day. Mr Berney's girlfriend, who was in the flat when the officer called, agreed they might have been thoughtless and would try to keep the noise down. She demonstrated to the housing officer the level at which music was played. The officer noted "it nearly blasted my ears off" and showed the girlfriend what she considered to be a reasonable volume. She also noted that the girlfriend appeared unable to understand why she couldn't have the volume any louder than that without causing a nuisance to other tenants.
5. A month later the housing officer wrote to Mr Berney referring to her visit and saying that "Apparently this is the third warning that you have been given about the nuisance your conduct has caused your neighbours". There was no reference on Mr Berney's tenancy file of any previous warnings.
6. Mr Vincent wrote to the housing officer saying that since her visit there had been nuisance from midnight until 2 or 3am on two occasions.
7. In April 1997 Mr Berney applied for a transfer to a larger property because he said his pregnant girlfriend and three-year-old daughter had moved in with him.
8. Mr Vincent, too, applied for a transfer and in July 1997 moved to a quiet block of flats for elderly and mature single people.
9. In August 1997, Mr Berney was rehoused by the council. There was no record on his tenancy file of any of the complaints which the council had received while he was at his former home.

Procedures

10. The housing manager said that, as far as he was aware, the council had no detailed written procedures for dealing with noise nuisance complaints before March 1997. He said that incoming post was given to him if it was in his area and he then allocated it to a housing officer. The housing officer used the piece of post to make any notes, including visit reports, and when the necessary action had been taken, it was put in the filing box. Filing was done by a part-time clerk who decided what did and did not go onto the file. Two officers said that there was an unofficial culling of paperwork and that they had both put documents into filing which had not then been filed.
11. Records of telephone messages were dealt with in the same way. Visit notes and notes of other action were recorded on the back of telephone messages or in pages from a notebook. There was no evidence of telephone messages on any of the tenancy files involved in this case.
12. The Ombudsman found that the incoming post log recorded receipt of three letters of complaint from Mr Vincent prior to February 1997,

including a request in October 1995 to be moved. These letters were not on any of the files seen by the Ombudsman's investigator.

13. The housing officer said that there was no continuity in dealing with tenants. Whoever answered the phone, or was given a message or letter, dealt with it. Officers had to rely on word of mouth to find out what had happened in the past.
14. The housing manager said that the housing office had been reorganised several times in the previous year or so and that each time a different system or way of working was introduced it caused even more problems.
15. None of the officers could explain why Mr Vincent had been moved although Mr Berney had also sought a transfer and was likely to have had been moved very quickly. Mr Vincent said that he had lived in the flat for 17 years and had only asked to move because the council had done nothing about the noise nuisance from Mr Berney.

Record keeping

16. The Ombudsman said that proper record keeping within the housing department appeared virtually non-existent. He said:

"Such pervasive maladministration makes it almost impossible for the council to know whether its housing stock is being properly managed and whether its tenants are getting the service to which they are entitled."

Conclusion

17. The Ombudsman concluded that Mr Vincent's complaints were not satisfactorily investigated by housing officers or referred for investigation

to the environmental health department. The council's failure to investigate Mr Vincent's complaints properly during 1995 and 1996 was maladministration. The council's failure to respond to his request for a transfer in 1995 was also maladministration.

18. His complaints early in 1997 were, however, taken seriously by the council. Mr Vincent was given a transfer form because he made it clear that he was prepared to move to get away from the nuisance, though he told the council that he would rather Mr Berney moved away.
19. Mr Vincent was transferred in July 1997. Mr Berney was also moved, just one month later, having applied for a transfer in April. The Ombudsman thought that, if it had been explained to Mr Vincent that Mr Berney was being transferred, then Mr Vincent might well have decided to stay in his flat. Not taking Mr Berney's likely move into account when determining how the council should best respond to Mr Vincent's transfer application was maladministration.

Remedy

20. The Ombudsman recommended that the council should pay Mr Vincent £500 and a further £250 for the time and trouble to which he had been put in pursuing his complaint with the council and with the Ombudsman. He also recommended that the council should conduct, or commission, a thorough review of its housing management arrangements to satisfy itself that filing and record keeping were adequate and that appropriate guidelines and training were provided to staff.

(Report 96/B/4384)

D12: Succession

Delay in considering application to succeed to tenancy – delay in registering waiting list application

1. Mr Wood complained about the way a council dealt with his request to be granted the tenancy of the flat he lived in.

The request

2. Mr Wood acted as carer for an elderly woman. With the council's permission, he lived in her council flat. After about eight years, the woman died. Mr Wood asked the council if he could take over the tenancy.
3. Mr Wood did not have a legal entitlement to succeed to the tenancy because he was not a member of the tenant's family. The council's procedures gave no guidance on what should happen if a remaining occupant was not a family member. The council had a senior officer review panel and any case which fell outside the law or the council's policy could be referred to the panel for consideration of whether a tenancy should be granted.
4. The Ombudsman said that Mr Wood behaved with commendable responsibility and promptness. Within three days of the tenant's death, he gave the council a copy of her death certificate and asked if he could become the tenant. He paid rent and council tax. He promptly provided the information for which the council asked. He and his advisers repeatedly asked the council whether the tenancy could be allocated to him. But at the time of the Ombudsman's report, nearly three years after Mr Wood had made his original request, the council had still not finally determined the matter.

The council's actions

5. The Ombudsman said that the council's conduct was in marked contrast to Mr Wood's:
 - it was not until ten months after Mr Wood made his request to take over the tenancy that the council told him that he could not do so;
 - at the council's request, Mr Wood completed a housing application form but the council did not register it until some six months later;
 - Mr Wood's case was not referred to the senior officer review panel for consideration: the council's comments on the complaint suggested that referral to the panel would be appropriate but at the time the Ombudsman's report was issued this had still not been done;
 - the council failed to reply to Mr Wood's letters seeking clarification of his position; and
 - the council continued to ask him for information which it already had.
6. The Ombudsman considered it likely that, if the council had acted properly when Mr Wood made his request to succeed to the tenancy, the case would have been put to the review panel shortly afterwards. If the panel had not agreed to grant him the tenancy the council could have sought possession. If that had happened, it was likely that the council would have accepted that it had a duty to rehouse him as, under its normal arrangements, it would have been accepted that he was vulnerable on the grounds of age. Alternatively, the panel might have agreed that he should become the tenant. Either way, he would have become a council tenant.

Outcome

7. The council accepted that the flat was suitable for Mr Wood's needs and he wished to remain there. To remedy the injustice caused by the council's maladministration, the Ombudsman recommended that the council should grant Mr Wood the tenancy. He had

continued to live in the flat but had suffered a great deal of anxiety about his position, and in recognition of that the Ombudsman recommended the council to pay him compensation of £350.

(Report 96/A/4484)

D13: Transfer

Complainants' son with severe disabilities – delay in providing suitable housing – inadequate liaison between housing and social services departments – confusion of overpaid housing benefit with rent arrears – fettering discretion by not considering exchange or transfer as a special case

1. Mr and Mrs Faulkner complained that a council had failed to deal properly with their request for rehousing for themselves and for their son Patrick who had severe disabilities.

wrote saying that Patrick would always have severe disabilities, that it was difficult for Mr Faulkner to carry him up the stairs to the flat, and that the proposed exchange would provide a solution to this problem. The council refused to agree to the exchange because Mr Burton had rent arrears of £125.

What happened

2. Patrick had cerebral palsy, was unable to walk or talk, and required 24-hour care which his parents provided. The family lived in a series of unsuitable council properties. At each property the parents either had to carry their son up and down stairs or take care of his bathing needs in the ground floor kitchen. As Patrick became a large-framed teenager, this grew more and more difficult, causing undue strain on the health and well-being of his parents.
3. In 1991 Mr and Mrs Faulkner applied for permission to exchange with Mr Burton, Mrs Faulkner's father, whose house had a stair lift. Patrick's social worker wrote a detailed letter supporting the application. His GP also

The Ombudsman's views

4. The Ombudsman commented that the Faulkners' need for rehousing was severe and was going to worsen as Patrick got older. The council gave inadequate consideration to their exceptional needs when it considered their request for an exchange. At the very least, the Ombudsman said, the request for an exchange should have been referred to senior officers for consideration as an exception to the council's policy on rent arrears. The council fettered its discretion by not considering this case as an exception either in 1991 or when the request was repeated the next year, and that was maladministration.

5. The Ombudsman was also concerned that housing officers who were responsible for making important decisions on the allocation of the council's housing stock did not appear to know that the council's policy and procedure included provision for exceptions. Moreover, officers believed that rent arrears and overpayment of housing benefit could be considered jointly when assessing the amount of 'rent arrears' owed to the council. Housing benefit legislation was quite clear that this was unlawful. The failure to distinguish between rent arrears and housing benefit overpayment was maladministration. On the balance of probabilities, the Ombudsman concluded that, if proper consideration had been given to the Faulkners' needs at the appropriate time, they would have been allowed to exchange with Mr Burton in 1991.
 6. The Faulkners were told on a number of occasions that the council's budget for adaptations was insufficient to provide for their needs. The possibility of awarding a disabled facilities grant was not apparently considered by officers as a possible solution. For some time officers were not sure whether council tenants were eligible for disabled facilities grants at all. The council's failure to consider whether the Faulkners were a suitable case for assistance through a disabled facilities grant was also maladministration.
 7. The Ombudsman commented:

"This has been an appalling catalogue of neglect by the council. It seems to me to have disregarded its obligations to this family trying to cope with the needs of one of its members who is suffering from a severe disability. To whom should such a family turn if not to the council, especially when, as in this case, the council is also its landlord? Yet at every approach the family has been spurned."
 8. The family were the victims of a too rigid adherence to policy; they suffered from poor communication between social services and housing officers, which meant that those officers who were attempting to help were rendered helpless by other officers; the family were told that a lack of resources meant they could not be helped with aids and adaptations, yet officers failed to point them in the direction of other resources within the council's control.
- Outcome**
9. The Ombudsman said that the injustice was very substantial. The family suffered unsuitable accommodation for almost seven years longer than they should have done.
 10. The Ombudsman recommended compensation of £20,000; a review of the council's arrangements for dealing with the housing needs of disabled people; and a review of the training needs of housing officers.

(Report 96/B/4035)

D14: Transfer

Unreasonable delay – failure to consider information properly – poor liaison between departments

1. Ms Lewis complained that a council had delayed unreasonably in rehousing her family in suitable larger accommodation. She lived in a two bedroom maisonette.

transfer priorities in June 1995. The council backdated her priority for an 'out of turn' offer to that date.

Family background

2. Ms Lewis had a son who was aged 14 at the time of the Ombudsman's report in December 1998. He had learning difficulties and behavioural problems. Ms Lewis's 11-year-old daughter had sickle cell anaemia and asthma. Her father had been murdered and her mother and brother came to depend heavily on her. At one time her mother lived with her brother but he suffered from schizophrenia and was unable to give adequate help with care for his mother. The mother had chronic mental health difficulties, diabetes and hypertension and had had cancer of the leg. In 1996, following the onset of gangrene and the amputation of part of her foot, she came to live with Ms Lewis and her children.
3. Ms Lewis first applied to the council for a housing transfer in October 1991 after a violent attack on her by her former partner. Over seven years later she was still living in the same maisonette. The Ombudsman commented that year after year Ms Lewis had coped with mounting adversity and he described her commitment and resilience as astonishing.
4. Throughout the seven years, Ms Lewis had been in fear of violence and harassment from her former partner. The council reviewed the evidence Ms Lewis had provided in support of her request for a move and accepted that her application ought to have been given medical and management

Faults by the council

5. The Ombudsman found a number of administrative faults in the way the council dealt with the application from Ms Lewis for a transfer:
 - in 1991, and again in 1994, the council failed to consider properly whether Ms Lewis should have been transferred on management grounds because of the harassment by her former partner;
 - in 1991 Ms Lewis expressed an interest in moving outside the borough, but the council did not properly consider whether she could be nominated for an exchange and did not ask her to fill in a nomination form;
 - there was inadequate co-operation between the housing and social services departments in assessing the family's need for rehousing;
 - the social services department could nominate families for housing, under a 'social services quota', where accommodation was needed on grounds of children's welfare, but the council failed to consider whether Ms Lewis should be nominated under that quota, and the social worker who assessed her housing needs said he had never heard of the arrangement;
 - during 1995 and part of 1996, there was delay and muddle in considering whether her mother could be considered as part of her household and the relevance of this to the family's rehousing needs; and

- the council repeatedly mislaid information relevant to her transfer, and at the time of the Ombudsman's report her tenancy file was still missing.

Injustice

6. The Ombudsman accepted that, even if the council had dealt properly with the transfer application in October 1991, it was unlikely that a management transfer would have been agreed. Her circumstances at that time did not appear to have met the council's criteria for a management transfer.
7. But the situation was different in 1994. Her former partner had come to live less than a mile away from her, having been rehoused there by the council, and Ms Lewis had suffered further serious harassment from him. Moreover, by that time, the council knew more about the difficulties of her children. The Ombudsman was satisfied that if the council had properly considered the information available to it, it would have granted Ms Lewis a management transfer in 1994.
8. In 1995 the council knew about the desirability of her mother coming to live with her. Yet it persisted until 1996 in considering the family's needs as if rehousing were needed only for Ms Lewis and her two children. The Ombudsman could see no satisfactory reason why the information about Ms Lewis's mother was not taken into account, and considered that, if it had

been, it was likely that the council would have considered the family for four bedroom accommodation from 1995.

9. The Ombudsman concluded that rehousing for Ms Lewis had been delayed unreasonably and that the council's maladministration had caused her a prolonged and serious injustice.
10. The Ombudsman recommended that the council should:
 - pay Ms Lewis £1,500 in recognition of the injustice to her;
 - bring together all the officers and organisations with relevant responsibilities and expertise to decide what could be done to ensure that suitable accommodation was made available to her and her family as quickly as possible;
 - explain why to the Ombudsman and Ms Lewis, if she was not rehoused within six months from the issue of the report. The Ombudsman would then consider whether the action the council had taken was satisfactory; and
 - complete a review of the procedures for corporate working between housing and social services staff, and ensure that all social services staff were aware of the procedures for nominations under the social services quota.

(Report 96/A/2806)

D15: Transfer

Harassment – tenant willing to move to any area but council failed to consider this – failure to consider complaint to the council

1. Mr Matthew complained that, over a period of several years, a council failed to consider and process his application for a housing transfer properly.

What happened

2. Mr Matthew was the tenant of a council flat in Area A from March 1989 until January 1998. The flat had two bedrooms, a single and a double. At the time he was allocated the flat he was living alone, but with access to his daughter who used to stay with him at weekends and during school holidays.
3. At the end of January 1991 both Mr Matthew's general practitioner, and his sister, wrote to the council supporting Mr Matthew's request to be transferred from Area A. The doctor described Mr Matthew's severe anxiety state and associated stress disorders, which appeared to have followed multiple marital problems, and advocated a return to Area B where most of his family lived. Mr Matthew's sister told the council that Mr Matthew was being intimidated; he had been beaten up in his own flat and his car had been burnt out. She also said that, as a result, Mr Matthew was unable to take his daughter, then aged eight, to his flat.
4. In February 1991 Mr Matthew specified three areas for rehousing. In April he wrote to the director of housing asking for his help in obtaining a transfer. He said that he would accept anywhere out of Area A.
5. Later in 1991 a friend wrote to the housing team leader, providing examples of the harassment Mr Matthew had suffered during the previous two years. This included four burglaries and four very serious assaults which had resulted in hospitalisation

including intensive care. The windows of his car had been smashed, the car's tyres had been slashed and the car had been burnt out.

6. In January 1998 Mr Matthew was transferred to a two bedroom flat in Area B only eight doors away from where one of his sisters lived. Mr Matthew was extremely happy but said that, when his troubles began, he would have moved to any property outside Area A had the opportunity been given to him.

The Ombudsman's analysis

7. Mr Matthew emphasised from the beginning of 1991 that he wished to be rehoused anywhere out of Area A. That was repeated on a number of subsequent occasions by both Mr Matthew and his GP. But the council considered him for only three specific areas.
8. The council told the Ombudsman that the maximum number of areas a person could be considered for was three. The council was unable to identify a statement to that effect in the housing policy applying at that time. The Ombudsman was of the opinion that the council's formal housing policy did not preclude a choice of more than three areas. By restricting Mr Matthew to three areas the council was effectively ignoring his main preference which was to move *anywhere* out of Area A. There was no evidence that he was ever advised to request the areas where he might be rehoused most rapidly. At the very least the council should have identified the three areas where he would have had the best chance of rehousing. The failure to consider his preference properly was maladministration.

9. Mr Matthew twice stated that he would be willing to consider an exchange, nomination to a housing association or a low-cost ownership scheme. There was no indication that the council ever offered him advice on those options or told him that there were no such schemes in the three areas. The failure to do so was maladministration.
10. In March 1991 Mr Matthew told the housing officer he was in debt because of his situation. There was nothing to show that officers drew his attention to the fact that arrears of rent might prevent him from obtaining a transfer.
11. The council contended that it was in 1993 that it received more detailed information about Mr Matthew's physical injuries and that his case became more urgent. The additional medical points and social needs points awarded in 1993 recognised this. The Ombudsman was of the opinion that Mr Matthew's circumstances were much the same from the start. If the council had interviewed Mr Matthew properly, this would have been apparent. There was nothing to show that Mr Matthew had ever had a formal interview with a housing officer specifically to discuss his request for a transfer. The officers' notes simply reflected what Mr Matthew or his GP had stated in writing. There were no records of telephone conversations.
12. The Ombudsman was not satisfied that medical points were properly considered. At least one of Mr Matthew's GP's letters appeared to have gone astray. There was no note of the medical adviser's findings. Nor was there evidence that the information supplied by the GP in October 1992, and by the GP and hospital in 1993, was considered. That was maladministration.
13. The council's policy did allow for social needs points. Yet it was not until 1993 that Mr Matthew was thus considered.
14. In June 1993 the housing team leader told Mr Matthew's GP that it was difficult to take the case further as the case had received no support from any other agencies. That was not true. In any event, if it were necessary for Mr Matthew to provide such support in order for the council to consider his request further, there was no indication that he was ever informed of that requirement.
15. The council said it normally required supporting information from the police yet realised that Mr Matthew's case was an exception. Exceptional cases called for exceptional action. The council failed to provide this.
16. The council failed to inform Mr Matthew of an outstanding debt for a rechargeable repair at the time a potential property offer was withdrawn. He was given no opportunity to clear the debt at that point.

Complaint to the council

17. The Ombudsman commended Mr Matthew's GP and Shelter for their persistence. However, the council did not treat the letters from the GP or other agencies as complaints about the way in which the council was dealing with Mr Matthew's request for a housing transfer. For example, a letter in August 1996 from Shelter specifically stated that they wished to complain about the way in which Mr Matthew's rehousing application had been dealt with. The failure to investigate this complaint was maladministration.

Injustice

18. In 1991 Mr Matthew asked to be moved to any area outside Area A. The Ombudsman considered that, on the balance of probabilities, the council should have been able to make him a suitable offer of a property by the end of 1992 at the very latest. But for the council's failures Mr Matthew could have been rehoused some five years earlier than he was. During that time he was living in fear, his health suffered and it was virtually impossible for him to maintain proper contact with his daughter.

Remedy

19. The Ombudsman recommended that:

- the council should consider whether its housing allocations system could include a separate classification for

people who were willing to be rehoused anywhere. It should ensure that applicants were properly advised about the likelihood of housing in different areas so that they could make an informed choice if they were restricted in the number of areas they could select;

- the council should ensure that its housing policy properly allowed for special cases/harassment, and that a proper procedure for consideration of medical points by the medical adviser was in place;
- the council should ensure that it responded properly to complaints; and
- the council should pay Mr Matthew £2,500 compensation for the delay in rehousing him, plus £500 for his time and trouble in making his complaint.

(Report 96/C/3071)