



## **COUNCIL, 1 FEBRUARY 2012**

This report is submitted with the agreement of the Mayor as an urgent matter, pursuant to Section 100B(4) of the Local Government Act 1972

### **REPORT OF THE MONITORING OFFICER**

**SUBJECT: REPORT OF THE LOCAL GOVERNMENT OMBUDSMAN  
FINDING MALADMINISTRATION BY THE COUNCIL**

<b>SUMMARY</b>
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The Council has received from the Local Government Ombudsman a report into a complaint relating to the re-housing of a Miss Ford and her family, which includes a disabled person. The Ombudsman has found maladministration causing injustice.

The family's application came first in the bidding for a house but no offer of accommodation was made as it was concluded that the house should be let to another family, judged to have greater housing need.

The Ombudsman is critical of the handling of that application, concluding that the Council had failed:

- (a) to comply with its statutory obligations in relation to unlawful discrimination against disabled people
- (b) to follow its Equalities and Diversity Policy
- (c) to respect the applicant's human right to respect for family life and
- (d) to apply fairly and properly its lettings policy, which was in any event ambiguous.

The Ombudsman recommends that the Council should:

- 1 make Miss Ford a suitable offer of accommodation without delay
- 2 pay £4,000 to Miss Ford and her family in recognition of the injustice they have been caused and the loss of opportunity to be rehoused in more suitable premises

- 3 arrange and pay for an additional week of respite care for Anna, and
- 4 review the wording of its lettings policy

<b>RECOMMENDATIONS</b>
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1. That the Council receive and note the Ombudsman's report on this case.
2. That the Ombudsman's recommendations be accepted in full, and that arrangements be made to pay the recommended compensation of £4,000 as soon as possible and for the recommended respite care for Anna to be provided as soon as convenient to the family.
3. That the current review of the housing allocations policy be completed as soon as practicable and that disabled stakeholder groups be fully consulted on the new policy prior to its submission for approval.
4. That the new policy be submitted for Cabinet approval, accompanied by a comprehensive Equality Analysis (EA) of the policy.
5. That all staff dealing with housing allocations be required to undergo appropriate refresher training on equalities and diversity as soon as practicable, so that they are fully up-to-date on the Council's Equality Act obligations.
6. That all current housing applications be reviewed to ensure that full account is taken of any Equality Act 2010 obligations or requirements and that due regard has been paid to such applicants' needs, with adjustments as necessary being made to ensure that there is no risk of the Council being held to have failed to take proper account of such factors in those cases, and that Equality Analyses of all of the Council's Housing Policies, practices and procedures be undertaken, to be completed no later than 31 January 2013, to ensure that the statutory Public Sector Equality Duty is being complied with.
7. That comprehensive information and guidance regarding the housing allocations policy and procedure be provided on the Council's website for disabled tenants and applicants (together with information on who to contact for further guidance and support), that all such guidance be made in alternative formats on request and that the Housing Service designate particular members of staff for training and development in specialist expertise of disability best practice and the Council's statutory obligations in order to improve the experience and treatment of disabled and vulnerable applicants and tenants.

<b>REPORT DETAIL</b>
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### **The Ombudsman's report and finding**

- 1 The Ombudsman's report is appended to this report. As she has found maladministration by the Council, in accordance with legal requirements, her report has been advertised as being available for public inspection for three weeks from 27 January, and this report is submitted for Council's consideration. The Council's decisions will be advised to the Ombudsman.
- 2 The facts of the matter are set out in full in the Ombudsman's report. Paragraphs 4 to 12 set out the policy, legal and administrative background, while paragraphs 13 to 26 describe Miss Ford's experiences. The Council's actions are reported in paragraphs 27 to 29 and the Ombudsman's conclusion and suggested remedy are set out in paragraphs 30 to 38.
- 3 With the benefit of hindsight, it is clear that Miss Ford's application was handled in an inappropriate manner from the point where her successful application was disregarded. Although in terms of dealing with housing need there may have been some justification for giving priority to the other family, it is clear that, had due account been taken of the Ford family's need for ground floor accommodation for Anna, as well as arranging accommodation for the remainder of the family, that would not have happened.
- 4 Staff appear neither to have fully appreciated nor to have paid due regard to the Council's obligations to disabled people by focussing on housing need alone and failing to take account of the special needs of a family that included a disabled person. Although the Equalities Act 2010 introduced new categories of protect vulnerable people and strengthened the rights of existing categories, legislation - protective of disabled people - has existed for a number of years. The failures highlighted by the Ombudsman relate to the legislative position prior to 2010 and it is disturbing that there appears to have been a lack of sensitivity to the needs of disabled people and their families.
- 5 The Council and its officers have additional duties under the Public Sector Equality Duty (PSED) to eliminate discrimination and promote equality of opportunity for disabled service-users. Officers failed to consider fully these additional duties in this case.
- 6 The Ombudsman observes that the Council's housing allocations policies require review. Such a review has, in fact, been in hand for some time

- and a report is expected to be submitted to Cabinet shortly upon the outcome of the review and proposing a new policy. Account has been taken of the ramifications of the present case in that review, and Members will be aware that they are to have opportunity to be briefed upon it (at a meeting to be held on 6 February). Housing Services have also engaged an independent expert on disability issues to review all its policies, practices and procedures relating to the assessment of need and rehousing of disabled people, and to make recommendations for any necessary changes, both to policies and also to the handling of any current cases.
- 7 Irrespective of that, however, the obvious lack of awareness on the part of staff dealing with housing allocations of the Council's obligations towards disabled and other vulnerable people and their families is a matter of considerable concern. In addition to the Ombudsman's recommendations, the Council is invited to support a recommendation that all staff dealing with housing allocations be required to undergo training on the Council's obligations pursuant to the Equality Act 2010.
  - 8 In addition, the Council may wish to request the Head of Housing & Public Protection to build on work already started in December 2011 by reviewing all current housing applications (transfer or waiting list) to ensure that all Equality Act obligations and requirements relating to each application have been observed and that due regard has been paid to such applicants' needs, with adjustments as necessary being made to ensure that there is no risk of the Council being held to have failed to take proper account of such factors in those cases. That review should go on to ensure that ALL policies, practices and procedures take full account of the Council's PSED obligations and that all necessary Equality Analyses are undertaken.
  - 9 In that connection, it should be noted that the Housing Service is proposing to make provision within the 2012/13 housing budget to fund a specialist Occupational Therapist who will be dedicated to supporting disabled homeless and housing register applicants find the best possible housing solution to their needs.
  - 10 The Council may wish to suggest that the Housing Service designate officers who develop specialist expertise of disability best practice and statutory obligations in this area – in order to improve the experience and treatment of disabled and vulnerable applicants and tenants.
  - 11 Finally, the Council will wish to be aware that, as noted in the Ombudsman's report, an offer of appropriate accommodation has been made to the applicant, which has been accepted. The applicant will be able to move in once appropriate adaptations have been made to the property.

**Council, 1 February 2012**

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**Background paper List**

The Report of the Local Government Ombudsman