

Embargoed until 00.01hrs Thurs 21 January 2010

Report

on an investigation into
complaint no 09 001 262 against
London Borough of Hammersmith and
Fulham

13 January 2010

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Report summary

Subject

Homelessness

Ms Kenza complains that the Council failed to give her adequate advice and assistance when she became homeless in June 2008 after she left her private rented accommodation following an incident of domestic violence on 27 May 2008. Housing officers had encouraged her to find accommodation in the private rented sector through the Direct Lettings Scheme and they did not explain that she could also make a homelessness application. She was not provided with emergency accommodation when she became homeless and says she spent four nights in June 2008 sleeping rough in a park. She also alleges that she was subjected to racial and sexual discrimination by Council officers.

Finding

Maladministration and injustice.

The standard of record-keeping by housing officers in this case was so poor that it hindered my investigation of the complaint. Officers did not consider taking a homelessness application from Ms Kenza after she left her accommodation on 4 June 2008 even though she was subsequently provided with emergency accommodation by the Council's Out of Hours Service and had told a housing officer she was homeless. The Council applied too strict a test when deciding whether it should provide Ms Kenza with temporary accommodation from 16 June 2008 by insisting she provide proof of homelessness first. The Council also failed to follow its own procedures for referring victims of domestic violence to a specialist domestic violence housing advocate for support and advice. The liaison and exchange of information between officers in the Children's Service and Housing Service about a vulnerable service-user was also ineffective.

As a result of the Council's failings, Ms Kenza was not provided with the level of support and assistance she could reasonably expect as a person who was homeless and in priority need. She was not placed in temporary accommodation while the Council carried out a full investigation of the circumstances that led to her becoming homeless.

Recommended remedy

The Ombudsman recommends that the Council:

- apologise to Ms Kenza for its shortcomings in handling her request for housing advice and assistance;
- pay compensation of £750;
- remind officers of the need to maintain accurate and detailed records of their contact with service-users and their advisers and advocates;
- review its systems for sharing information between Children's Services (and Adult Services in relevant cases) and the Housing Service about vulnerable service-users;
- ensure that the established procedure for referring service-users to the domestic violence housing advocate are followed;
- ensure that all forms used by the Housing Service are dated and ensure that records of service-users placed in emergency accommodation by the Out of Hours Service are copied to the housing officer responsible for the case.

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Introduction

1. Ms Kenza is a French national who came to live and work in the United Kingdom in 2005. She worked full-time in London until June 2008. She had an assured shorthold tenancy of a double room in a flat she shared with other tenants. She had applied to go on the Council's Housing Register in February 2006.
2. Ms Kenza complains that the Council failed to give her adequate advice and assistance when she became homeless in June 2008 after she left her private rented accommodation following an incident of domestic violence on 27 May 2008. Housing officers had encouraged her to find accommodation in the private rented sector through the Direct Lettings Scheme and they did not explain that she could also make a homelessness application. She was not provided with emergency accommodation when she became homeless and says she spent four nights in June 2008 sleeping rough in a park. She also alleges that she was subjected to racial and sexual discrimination by Council officers.
3. The law generally requires me to report without naming or identifying the complainant or other individuals. The names used in this report are therefore not the real names of the people involved.
4. One of the Commission's investigators has examined the relevant files. She has also interviewed Ms Kenza, her independent housing adviser and Council officers. She has considered information and case notes provided by "SUPPORT" - an independent voluntary agency which provides a 24 hour crisis support, advocacy and advice service to victims of domestic violence who live in the Borough. The agency employs a specialist domestic violence worker who is based in the Council's Housing Options and Advice team.
5. The Council, SUPPORT and Ms Razakarisoa and her housing adviser were invited to comment on the draft of this report before I wrote the conclusions. I have taken account of their comments in preparing the final text and reaching my conclusions.

Legal and administrative background

6. I have set out the relevant legal provisions and extracts from statutory guidance relating to homelessness in the Appendix attached to this report. In the Appendix I also say something about the Council's administrative arrangements and include relevant extracts from its homelessness strategy and procedures for dealing with requests for housing assistance and homelessness applications.

Investigation

Initial approach to the Housing Options & Advice Team

7. On 28 April 2008 Ms Kenza visited the Council's Housing Options and Advice team. She took with her a letter from her landlord giving notice of his intention to terminate her tenancy. The landlord's letter was dated 5 April 2008 and it gave two months' notice of his intention to terminate the tenancy on 4 June 2008. It asked Ms Kenza to vacate the premises on or before that date. The letter put her on notice that he may commence eviction proceedings if she did not leave by 4 June.
8. Ms Kenza was seven months pregnant with her first child when she visited the Housing Options and Advice team on 28 April. She had already provided the Council with proof of her pregnancy to update her Housing Register application in March 2008. She was due to stop work and go on maternity leave on 13 June. Her baby was due later that month.

Screening interview

9. Ms Kenza had an initial screening interview on 28 April with a Housing Information Officer. The adviser noted that Ms Kenza was seven months' pregnant and that her landlord had served a Notice of Seeking Possession on the grounds that the tenancy agreement did not allow children to occupy the property. The adviser made a copy of the landlord's letter and the tenancy agreement and checked Ms Kenza's passport. She asked Ms Kenza to complete a First Approach Needs Assessment and Referral Form which gave details about her personal circumstances, members of her household, immigration status, income and her accommodation history. She advised Ms Kenza to bring in proof of her eligibility because she is a French national. She booked an appointment for Ms Kenza to return on 6 May 2008 to see an Options Adviser.
10. When she completed the First Approach Needs Assessment and Referral Form on 28 April, Ms Kenza did not disclose that her husband lived with her. The tenancy agreement was in Ms Kenza's sole name. No reference was made on that form to any incidents or threats of domestic violence. When my investigator asked Ms Kenza to explain why she had not included her husband on the form, she said their relationship was breaking down and he was frequently absent for long periods visiting relatives who lived abroad. She did not really consider him to be a member of her household in the long term.

Second appointment

11. Ms Kenza returned to the Housing Options and Advice team on 6 May for her next appointment. The Options Adviser who was supposed to see her was unexpectedly absent and so a Duty Options Adviser stood in and conducted the interview. According to the officer's notes, he discussed all the options for resolving her

housing problems and Ms Kenza opted for the Direct Lettings Scheme. The notes record that Ms Kenza expressed some concern about staying in the accommodation and forcing her landlord to go to Court for a possession order. He advised her to negotiate with the landlord to seek his agreement to her remaining in the property until she found alternative accommodation through the Direct Lettings Scheme. He advised her to contact the Options Adviser to get the letter of introduction she needed for the Direct Lettings Scheme and to return again with payslips and a bank statement.

12. There is no evidence on the files to show that the Duty Options Adviser tried to contact the landlord to confirm his intention to proceed with the eviction. Nor did he write to him or to Ms Kenza to explain the legal process for obtaining possession of the property (see paragraph 15). Ms Kenza says she was told by the Duty Options Adviser that if she were to make a homelessness application she could be offered temporary accommodation "anywhere in the U.K". She says she did not want to leave London and so she felt she had no option but to register for the Direct Lettings Scheme. She says she was not given any written information about the housing options available to her or about the Direct Lettings Scheme at this interview (paragraph 6).
13. Ms Kenza says she telephoned every day from 7 May to 9 May to try to speak to the Options Adviser but he was not available. On 12 May she wrote to tell him she was waiting to receive the letter of introduction for the Direct Lettings Scheme. She said she would provide proof of her earnings and a bank statement when she received his letter. On 23 May, having heard nothing more, she telephoned again and managed to speak to the Options Adviser. He made an appointment for her to attend the office on 30 May to bring in her payslips and bank statement and to collect the Direct Lettings documents. He told my investigator that she probably did find it difficult to contact him between 6 and 23 May.

Third appointment

14. On 28 May 2008 Ms Kenza attended a police station in the Borough to report an incident of domestic violence by her husband the previous night. According to the police report, her husband assaulted her, smashed her mobile phone and prevented her from leaving the flat. He also forced her to sleep on the floor in their bedroom. Ms Kenza told the police she was concerned about her safety and the risk to her unborn child and said she no longer wanted to stay at the flat but had nowhere else to go. On the same day the Police Child Protection Team made a referral to the Council's Children's Services Contact and Assessment Team and also to SUPPORT.
15. Ms Kenza kept her appointment with the Options Adviser on 30 May. The officer checked her payslips and noted that she was eligible for Direct Lettings. He also referred her to the Shared Ownership Team. He made a brief note of the interview in the computerised case notes:

“App[licant] into office, she stated that she had problem with her husband although she initially approached cos [landlord] wants possession. App is eligible and earns well. Options include DL and shared ownership. All DL docs issued and ref to Shared Ownership Team”

Ms Kenza told my investigator that towards the end of the interview she told the Options Adviser that her husband had assaulted her two days earlier and that she had reported the incident to the police. She says she asked whether this new information would make any difference to the way her application was handled. She says the Options Adviser told her she had two choices: to pursue the “domestic violence route” which would involve referring her to a “different department” or to continue with the Direct Lettings Scheme.

16. My investigator asked the Options Adviser whether he remembers Ms Kenza telling him about the incident of domestic violence when she met him on 30 May. She also asked him to explain what he had meant when he recorded a “problem with her husband” in his case notes. He says Ms Kenza told him she had already moved out of her flat. He says she mentioned she was having problems with her husband but he understood this to be some sort of misunderstanding or disagreement. He says she said nothing to lead him to believe there had been an incident of domestic violence. He says if she had made that clear to him he would have referred her immediately to the SUPPORT domestic violence housing advocate who is based in the same office. He asked Ms Kenza if she wanted to continue with the Direct Lettings Scheme and says she agreed to do so.
17. During the 30 May interview, the Options Adviser gave Ms Kenza a letter confirming her eligibility for the Direct Lettings Scheme and a list of letting agents that participate in the Scheme. He also gave her a letter of introduction confirming that the Council would provide a rent deposit guarantee and liaise with the Benefits Service to process her Housing Benefit claim.
18. Ms Kenza says she remained in her room at the flat until 4 June 2008 because she had nowhere else to go. She says her husband was arrested by the police on 28 May and he did not return to the flat after he was released. There were no further incidents of domestic violence. According to notes made by SUPPORT, the police did not charge her husband because Ms Kenza did not want to proceed with a prosecution and there was not enough evidence to proceed without her testimony.
19. In the meantime both SUPPORT and a student social worker from the Children’s Services Contact and Assessment Team were trying to make contact with Ms Kenza to follow up the referral made to them by the Police (paragraph 13). The student social worker wrote to Ms Kenza on 30 May to invite her to meet her on 3 June 2008. Ms Kenza says she did not receive this letter until the day of the appointment and so she was not able to attend. But she called in to see the student social worker the following day instead.

Events after Ms Kenza leaves her home

20. Ms Kenza met the student social worker at her office on 4 June 2008. Her office was in the same building as the Housing Options and Advice team. The student social worker told my investigator Ms Kenza said she had to move out of her flat that day but she did not make it clear that she had nowhere to stay that night. The student social worker thought Ms Kenza might be staying temporarily with friends. When she commented on a draft version of this report, Ms Kenza said she told the student social worker she had nowhere to stay that night.
21. The student social worker says Ms Kenza did not mention her approach to the Housing Options & Advice Team in May or her recent meeting on 30 May with the Options Adviser. So the student social worker advised her to go immediately to the Housing Options Team to get advice. She told Ms Kenza the housing officer could call her if any further information was needed. Ms Kenza says she went to see the Options Adviser after her meeting with the student social worker on 4 June. She told him she had left her flat and that she was staying temporarily with a work colleague until she could find a place of her own. She says the Options Adviser told her that was fine. There is nothing in the case notes to record any contact between Ms Kenza and the Options Adviser on 4 June. When my investigator interviewed him he said would have made a note in the case records if he had seen Ms Kenza on 4 June. He has no recollection of speaking to her on this date.
22. On 5 June Ms Kenza telephoned the student social worker to say she had visited the Housing Advice & Options Team on 4 June but she had not been given any assistance. Ms Kenza says she told the student social worker that her work colleague's wife objected to her staying with them for more than one night and so she could not stay there any longer. The student social worker says Ms Kenza did not make it clear to her that she was now homeless. She understood Ms Kenza was going to stay with a friend for a few more nights. The student social worker agreed to call the Housing Advice & Options Team on Ms Kenza's behalf. She says she managed to speak to the Options Adviser. She cannot be sure whether she told him about the domestic violence incident but it is more than likely that she did. Her case notes record the telephone call but do not make it clear whether she passed on this particular piece of information. She says the Options Adviser advised her to tell Ms Kenza to stay in her flat until she was evicted by the landlord. He said that if she left before she was evicted she could be considered to be intentionally homeless. The Council would continue to help her find accommodation through the Direct Lettings scheme. The student social worker says she relayed this advice to Ms Kenza.
23. Although the case notes on the Children's Services file confirm that Ms Kenza spoke to the Options Adviser on 5 June, and some details of the conversation are recorded, there is nothing recorded on the housing file. The Options Adviser told my investigator that he does not remember speaking to Ms Kenza that day. He said he is certain he was not told about the domestic violence incident until much later.

He said the student social worker probably did call him and it “escaped his attention” to record the conversation in the case notes. He made the point that there is no concrete evidence that the student social worker told him about the domestic violence incident during her call.

24. Ms Kenza told my investigator that she was able to stay temporarily with a work colleague from 5 June until 12 June while her colleague’s sister was abroad on a short visit. On 11 June Ms Kenza contacted SUPPORT. She says she found their contact details in a booklet the police gave her when she reported the domestic violence on 28 May. SUPPORT has confirmed that Ms Kenza first made contact with them on this date.
25. On 12 June Ms Kenza had to leave her colleague’s home because the sister had returned to London and the room was no longer available. On Friday 13 June SUPPORT called the Council’s Out of Hours Service to arrange emergency housing for Ms Kenza. She was placed by the Duty Officer in bed and breakfast accommodation for the weekend (13-15 June) and told to attend the Housing Options and Advice Team on 16 June. On the form completed by the Duty Officer the reason for homelessness is recorded as “Domestic violence – abuse from husband”.
26. Ms Kenza returned to the Housing Options and Advice Team on 16 June 2008. She spoke to the Options Adviser over the internal telephone. She told him she had been placed in bed and breakfast accommodation over the weekend and was told by the Duty Officer to come in and see him. His notes record she told him she had left her rented accommodation. He advised her that she risked being found intentionally homeless. He noted that Ms Kenza had not engaged in the Direct Lettings Scheme. The Options Adviser told my investigator he was still unaware of the claim of domestic violence when Ms Kenza called him on 16 June and he had not seen the Out of Hours Service form. He says Ms Kenza seemed to have abandoned her tenancy when she had a legal right to remain there until she was evicted. Ms Kenza was placed in a different bed and breakfast hotel by the Out of Hours Service for one night on 16 June and she was told to return to the Housing Options and Advice team the following day. The booking form completed by the Out of Hours Service stated “fleeing domestic violence” as the reason for homelessness.
27. According to records sent to my investigator by the Director of SUPPORT, a member of staff tried to speak to the Options Adviser on 16 June but he was not available. She left messages for him but he did not return her calls. None of this is recorded in the housing case notes.
28. The Options Adviser told my investigator that Ms Kenza had been put on the priority list for the Direct Lettings Scheme on 30 May. Because Ms Kenza was still working at the time, he asked one of the Direct Lettings Officers to help search for a suitable property. After speaking to Ms Kenza on 16 June, he called to give her

details of a property available through the Direct Lettings Scheme in South London. Ms Kenza told my investigator that she did not want to view the property in South London because it would have been too far for her to travel to the maternity hospital in North Hammersmith. She did not want to move too far away and transfer to a new hospital at such an advanced stage in her pregnancy (she was due to give birth within the next two weeks).

29. Meanwhile, on 16 June, a caseworker at ADVANCE spoke to the domestic violence advocate based in the Housing Service to tell her about Ms Kenza's situation. The housing advocate said she would find out why Ms Kenza had not been referred to her instead of the Options Adviser. She also said she would speak to "someone in Housing" to ensure they understood that Ms Kenza was in priority need, heavily pregnant, fleeing domestic violence and had nowhere to stay. There are no records to show whether the advocate followed this up with the Options Adviser or another housing officer.
30. Ms Kenza returned to the Housing Options and Advice Team on 17 June 2008 and saw a duty officer. She said she was not interested in viewing the Direct Lettings property. Ms Kenza told my investigator that when she attended the Housing Options & Advice Team on 17 June she was expecting to see the SUPPORT domestic violence housing advocate but she was kept waiting for a very long time because the advocate was busy with other clients. In the end she was seen by the Duty Officer instead. My investigator was not able to interview the SUPPORT worker because she no longer works there and the Duty Officer was absent on long-term sick leave.
31. Before her interview with the Duty Officer on 17 June, Ms Kenza says she was asked to complete a form headed "Threatened/actual violence". On the form she wrote "I am homeless now". She stated that her husband had lived with her at the former rented accommodation for one year until 4 June 2008. She did not know his whereabouts as they had separated and she intended to divorce him. She described the incident of domestic violence that she had reported to the Police on 28 May. She said her husband had beaten her and slapped her face following an argument. She said she had seen her GP on 28 May but she sustained no injuries. On the form she gave specific dates and times when she had informed the student social worker about the incident (4 June at 4.00pm) and the Options Adviser (28 April 2008 at 2.00pm). The form does not ask the applicant to enter the date and it was not date-stamped by the Duty Officer. But Ms Kenza is certain she completed it on 17 June and handed it to the Duty Officer.
32. The Duty Officer made a brief entry recording her meeting with Ms Kenza in the computerised case notes. She made no reference to the form. According to her notes, the Duty Officer told Ms Kenza she would need to provide evidence from the people she had stayed with since she left her rented accommodation to prove she could no longer stay with them. She told Ms Kenza temporary accommodation would not be provided until she provided evidence of the addresses where she had

stayed since leaving her flat on 4 June. A SUPPORT caseworker contacted the Out of Hours Service on the evening of 17 June and was told that Ms Kenza had been put on the “do not place” list for emergency accommodation. Following further calls from the SUPPORT caseworker, Ms Kenza was booked into emergency accommodation for two nights (17-18 June) by the London Borough of Brent (her workplace was in that Borough).

33. According to SUPPORT’s case notes, one of their caseworkers spoke to the domestic violence housing advocate based in the Housing Service on 17 June after Ms Kenza’s visit. The advocate repeated the Council’s position that Ms Kenza had made herself intentionally homeless by leaving her flat and that she would need to provide proof that she could not stay any longer with her friends in order to show she was homeless. It is not clear from the case notes whether the housing advocate had obtained this information from reading the computerised case notes or whether she had discussed the case with the Options Adviser.
34. The Options Adviser, who was the case officer at the time, says he never saw the form giving details of the domestic violence incident. He says it is likely the form was handed to reception staff and it would not necessarily have been passed on to him. He says he knew nothing about the claim of domestic violence until he received a call from a worker at SUPPORT on 8 August 2008. It seems that no further enquiries were made into the domestic violence report at this time.
35. On the afternoon of 19 June a SUPPORT worker spoke to the Options Adviser. This is confirmed by SUPPORT’s case notes but no record was made of this contact by the Options Adviser in the housing case notes. According to the notes provided by SUPPORT, the Options Adviser said Ms Kenza had not presented with domestic violence issues at the time she first approached Housing and if she was now saying there had been an incident of domestic violence he would need to refer her to the specialist domestic violence housing advocate. The SUPPORT caseworker asked the Options Adviser if Ms Kenza could be placed in accommodation while further information was sought but he refused to do this. He said he needed to see a copy of the tenancy agreements for the people she had stayed with since she left her rented accommodation on 4 June in order to check their signatures. In his interview with my investigator, the Options Adviser said he was not aware of the domestic violence claim until 8 August 2008 (paragraph 36). When my investigator pointed out that this conflicted with evidence given to her by SUPPORT and asked him to comment, he said he probably did speak to the SUPPORT worker. He said he would have referred the case to the SUPPORT domestic violence advocate in the team if he had been told on 19 June about the incident on 28 May.
36. SUPPORT tried to find Ms Kenza a place in a women’s refuge. But Ms Kenza did not want to accept the offer of a place in an East London refuge on the grounds that it was too far for her to travel to the hospital in North Hammersmith where she was shortly due to give birth.

37. Ms Kenza told my investigator she had nowhere to stay for four nights from 19 June to 22 June. She says SUPPORT staff were unable to find her emergency accommodation and she had no friends or relatives who could accommodate her. She says she spent those four nights sleeping rough in a large central London park. The ADVANCE case notes record telephone conversations the caseworker had with Ms Kenza and worker in a women's refuge in South East London on 19 June 2008. A place was available for Ms Kenza that day in the refuge but, according to the case notes, she refused it because the rent was too high and she did not think Housing Benefit would cover the full charge.
38. The Council's Complaints Officer told my investigator he contacted a senior manager for the Royal Parks to ask his opinion about whether someone could sleep in the park without being detected. He was told that it is highly unlikely that a person could sleep in the park for three nights without being detected as the park is regularly patrolled and the gates are locked at night. When she was asked to provide more details, Ms Kenza said she had no way of proving she slept rough in the park because the only people she encountered in the park were homeless men who had been drinking. But she says she entered the park around 6.15pm in the evening before the gates locked for the night at 9.30pm. She found a park bench in a secluded area in a flower garden and spent the night there. She returned to the park recently to take photographs of the entrance gates, opening hours and the place where she says she spent the night. During the day she went to a nearby shopping street to buy food and she used washroom facilities at a fast food restaurant. She says she got very little sleep because she was cold and felt too scared to sleep. She says she did not see any police officers, security patrols or outreach workers on the nights she spent in the park. Ms Kenza's adviser has also drawn my attention to the fact that Ms Kenza said she had been sleeping in a park in her first letter of complaint to the Council. Ms Kenza said she went to an internet café on 21 June to type this letter.

Ms Kenza leaves England

39. On 23 June Ms Kenza's brother, who lives in France, came to London and took her back to France to stay with him. Her baby was born on 25 June. Ms Kenza says she stayed in France until 11 August 2008.
40. Meanwhile staff at SUPPORT did not know that Ms Kenza had gone abroad and so they made unsuccessful attempts to contact her in late June. The student social worker also tried to contact her by telephone and email during July and August. On 24 July the Options Adviser recorded that Ms Kenza's whereabouts were unknown but she was still not co-operating with viewing properties through the Direct Lettings Scheme.
41. On 8 July 2008 the Options Adviser entered some notes to update the case records. He wrote:

“Client claims DV in the past and contacted [SUPPORT]. SUPPORT advised to contact [domestic violence housing advocate] if DV is reason for homelessness. I spoke with [domestic violence housing advocate] and it seems client was offered women refuge. Although need to confirm this info....”

My investigator asked the Options Adviser what had prompted him to update his notes on 8 July 2008. He suggested that this date was wrong and he did not enter these notes on the system until 8 August 2008. (But subsequent enquiries by my investigator confirmed that there was no error and the entry was made on 8 July). The Options Adviser says he thinks he received a call from a member of staff at SUPPORT around this time and that was when he first became aware of Ms Kenza’s claim to have suffered domestic violence. So he informed the SUPPORT domestic violence housing advocate but he is not sure what action she then took to investigate the case.

Ms Kenza returns to England

42. Ms Kenza says that while she was in France she saw an advertisement on a French website to stay in a flat in South London while the owners were on holiday over the summer. She says she returned to the U.K with her baby daughter on 16 August 2008 and remained in the flat until the owners returned on 10 September 2008.
43. Ms Kenza visited the student social worker on 3 September 2008. She explained that she needed to know the outcome of her housing complaint and that she and her daughter would soon be homeless. The student social worker called the Options Adviser later the same day. He told the student social worker that Ms Kenza would need to bring in proof that she had been staying at the owners’ flat and a letter confirming she could no longer stay there. She could then be placed in temporary accommodation.
44. On 10 September 2008 Ms Kenza and her baby became homeless. She contacted the Council’s Out of Hours Service that evening and was booked into emergency bed and breakfast accommodation. According to the notes made by the duty officer at the Out of Hours Service, she said she was homeless because she had been evicted from her former rented accommodation in June 2008. Ms Kenza was told to attend the Housing Options and Advice team the following day.
45. Ms Kenza says the owner of the flat was very reluctant to provide a letter confirming she could no longer stay there. By the time she obtained the letter and travelled to the Housing Options office it was very late in the afternoon and so she was booked into emergency accommodation for the night.
46. Ms Kenza returned to the Housing Options office on 12 September 2008. She attended the interview with the student social worker because she was concerned about seeing the Options Adviser again. She provided a letter from the owner of

the flat where she had stayed over the summer and a bank statement as proof of his address. The Options Adviser authorised temporary accommodation for Ms Kenza and her baby.

47. Ms Kenza was booked into accommodation in one of the Council's hostels from 12 September 2008. On 22 September her case was allocated to an officer in the Applications Team and on 6 October she arranged to interview Ms Kenza and take a full homelessness application. The Council subsequently accepted that Ms Kenza was homeless, eligible for assistance, in priority need and not intentionally homeless. It accepted it owed her the main housing duty under Part 7 of the Housing Act 1996. Ms Kenza was then offered self-contained temporary accommodation in the Borough on 10 December 2008 where she still lives. Ms Kenza is making bids for permanent accommodation through the Locata choice-based lettings scheme.

Ms Kenza's complaint

48. Miss Kenza also pursued a complaint through all three stages of the Council's corporate complaints procedure between June 2008 and February 2009. Her housing adviser made written representations at Stage 3 of the complaints procedure. The Council partially upheld her complaint in that it accepted she had received a "disjointed service" and the Stage 3 investigating officer accepted that record-keeping was not adequate. But the Council did not accept that it had breached any duties it owed Ms Kenza under Part 7 of the Housing Act 1996. Nor did the Council find evidence to support Ms Kenza's claim that she had been the subject of race and sex discrimination.
49. Ms Kenza says she has no complaint about the Council's actions after it accepted a duty to arrange temporary accommodation for her on 12 September 2008.
50. My investigator asked Ms Kenza what led her to believe she was the subject of race and sex discrimination. In particular she asked if there had been any specific incidents when Council officers had said or done something which indicated she was being treated less favourably than other housing clients on the grounds of her race or gender. She responded that housing officers' treatment of clients overall was very poor and very unfair. She had often been kept waiting for a long time when she visited the office. She was at an advanced stage in her pregnancy and this caused her considerable inconvenience and discomfort. She even had to miss lunch on one occasion. She felt very upset by the way she was treated. She does not feel she was singled out for poor treatment and she noticed that other clients had similar experiences. When she sent comments on the draft of this report, Ms Kenza said she had observed black clients, black African clients and single mothers were treated badly by officers and she received similar treatment. She feels she deserves an apology for the way she was treated and the fact that she had to sleep rough for four nights. But no apology has been offered. She would also like the Council to accept that things went wrong, put them right and

encourage officers to treat service-users with more respect and consideration in future.

51. My investigator asked the Options Adviser to respond to these allegations. He said this made him very cross and he strongly refutes them. He says the last time he met Ms Kenza on 12 September they were on friendly terms. He says he never encountered any difficulties in his dealings with Ms Kenza and she was never aggressive. He was very surprised to hear that she had made these allegations.
52. In its comments on the draft of this report, the Council questioned Ms Kenza's credibility as a witness and pointed to certain inconsistencies in the statements she made when she pursued the complaint with the Council and with me. I accept there are some inconsistencies and omissions in her evidence. But I have also taken into account that English is not Ms Kenza's first language and she was not familiar with the process for making a homelessness application or the roles and responsibilities of different Council services. She had not lived in the U.K for very long and she had no relatives here. She claimed to have suffered domestic violence shortly before she was due to give birth to her first child. In such difficult and stressful circumstances, I am not surprised that she sometimes failed to mention certain facts which the Council considered were significant and relevant to her application.

Conclusion

53. My investigation of this complaint has been hindered by the poor record-keeping in this case. It has not been possible to resolve some conflicts in the evidence because of the absence of detailed contemporaneous notes recording housing officers' contact with Ms Kenza, SUPPORT caseworkers and other professionals. Significant calls from the student social worker and SUPPORT caseworkers went unrecorded on the housing files. My investigator had to piece together the sequence of events by looking at records held by a third party – ADVANCE – and the file held by Children's Services. I understand that housing officers work in a highly pressurised environment but it is vital they maintain accurate records of contact with service-users and the advisers and professionals who support them. I am glad the Council recognised there was unacceptably poor practice in this case when it investigated Ms Kenza's complaint at Stage 3 of its complaints procedure and that it has made recommendations for remedial steps. In my view the standard of record-keeping in this case fell so far below acceptable standards that it amounts to maladministration.
54. I see no evidence of fault in the way housing officers advised Ms Kenza and handled her case in the period leading up to 4 June 2008. Although her landlord had served her with a Notice to Quit which expired on 4 June 2008, Ms Kenza had the legal right to remain in occupation at the flat until such time as the landlord obtained a Possession Order and a warrant for eviction. So, when she was interviewed by the Options Adviser on 30 May 2008, she was not "threatened with homelessness" in the strict legal sense because she was not likely to become

homeless within the next 28 days. In these circumstances, I see nothing wrong with the Council's proposal that they should try to find her alternative accommodation in the private rented sector through the Direct Lettings Scheme. Ms Kenza seems to have agreed to this proposal.

55. There is still an unresolved conflict in the evidence given by Ms Kenza and the Housing Options Adviser about whether she told him during the interview on 30 May 2008 that she had been a victim of domestic violence at the flat two days earlier. The Options Adviser is adamant that Ms Kenza did not refer to domestic violence during this interview. Ms Kenza is equally certain that she did tell him about the incident on 28 May. The Options Adviser's note of the meeting simply refers to the fact that she had "problems with her husband" which is open to different interpretations. When he was interviewed by my investigator, the Options Adviser said he understood that her "problems with her husband" were nothing more than a simple misunderstanding or marital disagreement. But I am puzzled why the Options Adviser felt it necessary to record this comment in his notes if he considered it was insignificant and not particularly relevant to her housing situation. Despite these doubts, I cannot conclude, on the balance of probabilities, that Ms Kenza definitely told him about the domestic violence during the interview on 30 May. Again, the ambiguous entry in the case notes highlights the importance of officers making clear and accurate notes on the case file. If I had concluded that the domestic violence incident had been mentioned by Ms Kenza during this interview, I would certainly have expected the Options Adviser to have referred Ms Kenza immediately to the SUPPORT domestic violence housing advocate.
56. Until 4 June 2008 the Council's approach had been to try to meet Ms Kenza's need for new accommodation through the Direct Lettings Scheme. But, on 4 June 2008, Ms Kenza left her flat and surrendered her tenancy. She then became homeless and stayed for short periods with colleagues.
57. There is still some doubt about when the Council first became aware that Ms Kenza had left her flat. Ms Kenza says she told the student social worker and the Options Adviser that she had nowhere to stay when she spoke to them on 4 and 5 June 2008. But they do not think she made this clear to them at the time and the student social worker believed she was able to continue staying with friends. Certainly by 16 June 2008 the Council knew that Ms Kenza had left her flat because the Out of Hours Service had placed her in emergency accommodation over the weekend and Ms Kenza told the Options Adviser on 16 June that she had left her flat and had nowhere to stay. On 17 June Ms Kenza visited the office again and wrote on the form "I am homeless now". By making that statement on the Council's form, she was in effect making a homelessness application (it does not need to be made on a prescribed form).
58. This was a significant change in her circumstances which should have led the Council to pause, take stock of the situation and consider how to address her immediate housing needs. The advice given to local authorities in Chapter 2 of the

Homelessness Code of Guidance (Appendix, paragraph 8) and the guidance published by the Department for Communities and Local Government (Appendix paragraphs 14-15) supports my view. It stresses that a Part 7 homelessness application should be initiated where circumstances change from potential to actual or threatened homelessness. In my view, the Council should have considered at this stage whether it had reason to believe Ms Kenza may have been homeless and in priority need and whether this triggered its duty to provide temporary accommodation while it investigated her homelessness application. Housing officers asserted to the SUPPORT caseworker and the student social worker that, by ignoring their advice to remain in her flat and voluntarily leaving the property before she was evicted, Ms Kenza had made herself intentionally homeless. They also stated that she had to provide some evidence or proof from her hosts that she was homeless before it could place her in temporary accommodation. But in my view those statements reveal a fundamental misunderstanding of the low threshold set by section 188. All councils need is “a reason to believe that an applicant may be homeless, eligible for assistance and have a priority need”. The applicant does not need to prove homelessness before the Council secures temporary accommodation, nor is intentional homelessness a relevant consideration at this stage. It is sufficient for the Council to have “reason to believe” an applicant “may” be homeless. More detailed inquiries about the circumstances in which the applicant left their last settled accommodation can be made at a later stage when the homelessness application is being investigated. Accordingly I consider the Council’s duty to provide temporary accommodation under section 188 was triggered by the information Ms Kenza gave the Council on 16 June 2008. In my view its failure to recognise that it owed Ms Kenza this duty amounts to maladministration.

59. What were the consequences for Ms Kenza? If the Council had acted on the information she provided on 16 June 2008, I believe it would have secured some temporary accommodation for her from that night. She would then have been able to remain in temporary accommodation while the Council made further inquiries into her homelessness application and reached a decision about whether it owed her the full housing duty. She would not have needed to contact SUPPORT again and she would have been spared the disruption and upheaval of moving into emergency accommodation in Brent from 17-18 June as well as making further visits to the housing office on 17 June. The provision of temporary accommodation would have alleviated the stress she experienced in the weeks leading up to the birth of her baby.
60. Would she also have been spared the experience of sleeping rough for four nights in a park from 19-22 June? The Council has expressed some scepticism about Ms Kenza’s claim that she slept rough for four nights. I accept there is no evidence to corroborate her statement that this happened. But, equally, there is no evidence to disprove it. I have noted the comments made to the Complaints Officer by a senior manager in the Royal Parks about regular security patrols in the park at

night. But he is expressing his opinion and it is not conclusive evidence. It is not inconceivable that someone could enter a large London park during opening hours, find a secluded spot before the gates are locked for the night and avoid detection. However, I cannot disregard the fact that Ms Kenza turned down the opportunity to stay in a women's refuge in South East London from the night of 19 June and she slept rough instead. Although I understand she had a strong preference to remain in West London near the hospital where she was due to have her baby, and she had concerns about whether she could afford to pay the accommodation charge at the refuge, I consider she could have mitigated the situation by accepting a place in the refuge as a short-term solution. She had the option of having a roof over her head on the night of 19 June but she chose not to take it and slept rough instead. For this reason I feel it would be unfair to ask the Council to pay substantial compensation for the four nights she says she slept in the park from 19 to 22 June 2008.

61. There is still some doubt about when Ms Kenza first told the Options Adviser that she had been the victim of domestic violence. The referral made by the police to Children's Services on 29 May 2008 was triggered by Ms Kenza's report of the incident of domestic violence on 28 May 2008. The referral form gave detailed information about the allegations of domestic violence. So that information was in the Council's possession by 29 May. It seems to me that this information should have been shared with the Options Adviser soon after Ms Kenza first met the student social worker on 4 June. If that had happened, it seems likely that the case would have been referred then to the specialist domestic violence housing advocate and events may have taken a very different course. The evidence from SUPPORT strongly indicates that the Options Adviser was made aware of the domestic violence issue long before he updated the case notes on 8 July 2008. The earliest date for which documented evidence exists is 19 June 2008 when a SUPPORT caseworker spoke to him. That raises the question as to why he did not make a referral to the specialist domestic violence advocate then.
62. This investigation clearly demonstrates the need for effective liaison and information-sharing between different services within the Council. Although Children's Services and the Housing Service were located in the same building, they seem to have operated as silos and officers did not share relevant information with each other. In order to provide a more effective service to clients, I recommend that officers in both services review ways of improving information-sharing in cases that involve vulnerable adults and children. The burden should not be placed on vulnerable and distressed clients to have to repeat information to housing officers that is already in the possession of another Council service. I also consider that information recorded by the Out of Hours Service when they book clients into emergency accommodation should be copied to the housing officer who is dealing with the case. The Options Adviser says he did not see the forms completed by staff on the Out of Hours Service when they booked Ms Kenza into

accommodation. These forms included relevant information which should have been made available to him.

63. Finally, I have considered Ms Kenza's claim that she was discriminated against by housing officers because of her race and sex. Ms Kenza says she observed black service-users and single mothers being treated less favourably by officers when she attended the Housing Centre. She identifies herself with these two groups and her perception is that she was also treated less favourably. I am sure it must be very frustrating to be kept waiting a long time to see a duty housing officer, particularly when you are in the final stages of pregnancy. I also recognise that Ms Kenza had difficulties in getting through to the Options Adviser when she tried to call him. But, in the absence of any specific incident or comment made by an officer, it is difficult for me to uphold this part of the complaint and conclude that Ms Kenza was singled out for less favourable treatment than other service-users because of her race or sex.
64. To sum up, I have found the following maladministration in the Council's handling of Ms Kenza's case:
- the poor standard of record-keeping and the unreliable case notes;
 - the failure to consider taking a homelessness application after she left her accommodation on 4 June 2008, was accommodated by the Out of Hours Service over the weekend of 13-15 June and told officers she was homeless on 16 June;
 - the failure to provide temporary accommodation from the night of 16 June 2008. Ms Kenza was expected to provide proof of homelessness from her hosts before the Council would consider whether it had a duty to provide accommodation. The Code makes it clear to authorities that "having reason to believe" a person may be homeless is a much lower test than "being satisfied" and so there is no need for an applicant to first produce "proof" of homelessness for the section 188 accommodation duty to be triggered ;
 - the failure to follow its procedures for dealing with victims of domestic violence by not referring Ms Kenza to the SUPPORT domestic violence housing advocate after she had informed the Options Adviser about the incident of domestic violence. In my view the fact that she was already in contact with other SUPPORT staff based elsewhere is not a sufficient excuse;
 - the ineffective liaison and exchange of information between Children's Services and the Housing Service about the needs of a vulnerable service-user;

I consider Ms Kenza suffered some injustice because she was not provided with the level of support and assistance she could reasonably expect as a person who was homeless and in priority need. She was not placed in temporary accommodation while the Council investigated the circumstances that led to her homelessness.

65. To remedy this complaint, the Council should:

- remind all housing officers of the need to maintain accurate and detailed notes of their contact with service-users and their advisers and advocates;
- remind officers that all forms completed by service-users must be dated;
- review its systems for sharing information between Children's Services (and Adult Services in relevant cases) and the Housing Service about vulnerable clients (including the need to obtain consent from the service-user);
- ensure that records of placements made by staff from the Out of Hours Service are copied to the housing officers who are dealing with the case;
- accept that responsibility for making referrals to the domestic violence housing advocate rests with the officers in the Housing Service, even where the service-user already has an adviser or advocate, and ensure that the established referral procedures are followed;
- apologise to Ms Kenza for its shortcomings in handling her request for housing advice and assistance;
- pay Ms Kenza £750 compensation to recognise her time and trouble in pursuing the complaint and the stress and inconvenience she suffered due to its failure to secure temporary accommodation for her from 16 June 2008.

Embargoed until 00:01hrs Thurs 21 January 2010

**Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
London SW1P 4QP**

13 January 2010

Embargoed until 00.01hrs Thurs 21 January 2010

APPENDIX

Legal and Administrative Background

1. The law relating to homelessness is set out in Part 7 of the Housing Act 1996 (as amended by the Homelessness Act 2002). Under section 175 a person is homeless if he or she has no accommodation available in the UK or elsewhere which is available for his or her occupation and which he or she has a legal right to occupy.
2. Section 175 (3) of the Act states that a person shall not be treated as having accommodation unless it is accommodation which it would be reasonable for him or her to continue to occupy. It is not reasonable for a person to continue to occupy accommodation if it is probable that this will lead to domestic violence or other violence against him.¹ For the purposes of this section 'violence' means violence or threats of violence from another person which are likely to be carried out.²
3. A person is threatened with homelessness if it is likely that he will become homeless within 28 days.³
4. Section 184(1) of the Housing Act 1996 states that "If the local housing authority have reason to believe that an applicant may be homeless or threatened with homelessness, they shall make such inquiries as are necessary to satisfy themselves (a) whether he is eligible for assistance, and (b) if so, whether any duty, and if so what duty, is owed to him under the following provisions of this Part."
5. Section 188(1) of the Act states that "If the local housing authority have reason to believe that an applicant may be homeless, eligible for assistance and have a priority need, they shall secure that accommodation is available for his occupation pending a decision as to the duty (if any) owed to him under the following provisions of this Part."
6. Nationals of European Union states who meet qualifying conditions as "workers" are eligible for housing assistance under Part 7 of the Act. Pregnant women and households with dependent children are included in the "priority need" groups under the homelessness provisions in Part 7.
7. Section 182(1) of the Act says that councils must have regard to guidance given by the Secretary of State when carrying out their functions relating to homelessness and the prevention of homelessness. At the time of the events of this complaint, the relevant guidance was published as the Homelessness Code of Guidance for Local Authorities.

¹ Housing Act 1996, s.177(1)

² Housing Act 1996, s.177(1A)

³ Housing Act 1996, s.177(4)

8. Chapter 2 of the Code recognises that prevention of homelessness is a key strategic aim, but warns:

“Housing authorities are reminded that they must not avoid their obligations under Part 7 of the 1996 Act (including the duty to make inquiries under s.184, if they have reason to believe that an applicant may be homeless or threatened with homelessness), but it is open to them to suggest alternative solutions in cases of potential homelessness where these would be appropriate and acceptable to the applicant.”

9. The Homelessness Act 2002 introduced a new requirement for councils to carry out a homelessness review and publish a homelessness strategy based on that review by 31 July 2003⁴. Councils must take the homelessness strategy into account when carrying out their housing functions.

10. The Council’s homelessness strategy for 2005-2008 included a section headed: “Developing choice and alternatives for the homeless” It says⁵:

“It is important from the outset people are aware of the choices available to them and the housing options that they have. The borough will provide information on what options are available and will be clear about the advantages and disadvantages of each. In this way we hope to develop services that enable people to make some degree of choice in their housing situation.”

Among other pledges it undertook to:

- develop a full housing options information pack for households threatened with homelessness;
- improve services for survivors of domestic violence by working in partnership with the domestic violence co-ordinator and [“SUPPORT” a domestic violence advocacy organisation] to ensure that all women who are suffering domestic violence can be assisted to stay at home where it is their choice to do so...”

The Council also set a target to reduce the use of temporary accommodation by 30% by 2008.

11. The Homelessness Act 2002 marked a substantial shift in the culture of homelessness work in local authorities, encouraging them to focus more on prevention. Homelessness prevention involves early intervention to provide advice

⁴ Homelessness Act 2002, s.1(1)

⁵ Homelessness Strategy 2005-2008, paragraph 5.2

and support to households at risk of homelessness to enable them to remain in their home. It may involve negotiations with landlords to try to maintain an existing tenancy or arranging mediation between parents and a young person with the aim of enabling them to stay in the family home.

12. The Department for Communities and Local Government (DCLG) expects local housing authorities to work towards some specific homelessness prevention objectives, including reducing the number of households accepted as homeless. DCLG introduced a national target to halve the total number of households placed in temporary accommodation between 2005 and 2010.
13. The 'housing options approach' underpins the new homelessness prevention agenda. All new applicants for housing assistance or advice are offered an initial interview. The aim of this "screening" interview is to discuss practical steps that can be taken to avert homelessness by securing their existing accommodation or, failing that, to examine all possible routes to access a new tenancy.
14. In June 2006 DCLG published guidance for local authorities⁶. One of the key messages for authorities engaged in homelessness prevention work is to:

“Ensure that a requirement to participate in a 'housing options' interview does not act as a barrier preventing or discouraging homeless people from seeking help – and does not prevent or delay necessary enquiries if there is reason to believe they are homeless.”
15. The guidance continues:

“In accordance with the legislation, where the housing officer has reason to believe that an applicant may be homeless or threatened with homelessness, a formal Housing Act Part VII assessment is initiated. Under the housing options approach, the procedure for households likely to be eligible and in priority need for homelessness assistance is now therefore likely to be operated as a two-stage process, with options and prevention considered first, but with safeguards in place where a person is eligible for and requires assistance under the homelessness legislation. Where a Part VII assessment is triggered through a housing options interview, for example in cases of threatened homelessness, all possible measures to prevent actual homelessness should be undertaken in parallel with this.”
16. The guidance also makes it clear that the housing options interview should not act as a barrier to a statutory homelessness assessment:

“It is ... important that this process improves outcomes and does not unduly delay a statutory homelessness assessment if this is

⁶ DCLG “Homelessness Prevention: a guide to good practice”

necessary. It is also important that it is inspired by a desire to improve the help on offer, and not by a 'gatekeeping' mentality – i.e where the process is seen primarily as a device to prevent or discourage people from seeking housing assistance. The housing options approach should never replace or delay a statutory homelessness assessment where the authority have reason to believe that someone is homeless or threatened with homelessness.”⁷

Administrative arrangements and operational procedures in Hammersmith and Fulham

17. The Council has an Operational Procedures Manual for staff in the Housing Options and Advice team. The first point of contact for all visitors and telephone callers who are already homeless, or those who are at risk of losing their accommodation, is a screening interview with a Housing Information Officer (CIA), who will gather basic details about the applicant's circumstances and their reasons for approaching the Council for assistance. The CIA photocopies available evidence about the applicant's eligibility (immigration status), priority need status and current accommodation. The CIA will advise the applicant what additional documentary evidence needs to be produced at the next interview. The manual differentiates between options available to all applicants, options available only to those who seem to be in priority need and options where there is no evidence of priority need. The manual states:

“CIAs will be able to refer clients to the Housing Advice and Assessment casework teams. If after screening, they are satisfied that the applicant:

- Is homeless, threatened with homelessness, or has an identifiable housing need such that it might not be reasonable for them to remain in their existing accommodation, and
- Is (or may be) eligible for assistance, and
- Has (or may have) a priority need for accommodation

[...]

Referrals to Housing Options and Advice (HOA) casework teams will be made for clients where the Council may have a duty to provide housing, but further investigation is required, and where more complex housing advice and/or interventions are needed.”

There is a relatively low threshold for referral to the HOA casework teams, and as long as the screeners are satisfied that

⁷ Ibid, paragraph 2.11

the person has housing needs and is not clearly ineligible, a referral for casework will usually be made.”

18. The HOA families’ team deals with households which include dependent children or a pregnant woman. A specialist domestic violence worker, employed by SUPPORT is based in this team (paragraph 4). All applicants who tell the CIA during the screening interview that they have suffered domestic violence and who are in priority need should be referred to the specialist domestic violence worker.
19. The Council has produced guidance to assist officers engaged in homelessness prevention and housing options casework with families. It deals with the most common causes of homelessness and sets out the approach to be taken. In the section: “End of Assured Shorthold Tenancy” it says the starting point is to accept the limitations of the tenant’s position as there is only limited security of tenure and a landlord who is determined to regain possession is likely to be successful. It says advisers should contact the landlord at the earliest possible opportunity to establish if the intention to seek possession is genuine and rule out any element of collusion between landlord and tenant. If the landlord is determined to pursue a claim for possession the adviser must write to both landlord and tenant explaining the legal process for obtaining a possession order and a warrant for bailiffs to carry out the eviction. The letter should also explain that temporary accommodation will usually not be offered to the tenant until the landlord has obtained a Court order and a bailiff’s warrant. Tenants should be registered for the Direct Lettings Scheme at an early stage to give them every opportunity to find alternative accommodation before the landlord starts proceedings.
20. The Council’s guidance sets out the approach to take in cases where the applicant has fled domestic violence. It says the Council has a “believing approach” to allegations of domestic violence which means its starting point is to assume that the woman is telling the truth. But it goes on to say that does not absolve the Council of its legal duty to make enquiries to try to establish the facts. It says advisers should, wherever appropriate, refer the applicant to SUPPORT (paragraph 6). It says that if an applicant is unable to return home, the Council should provide emergency temporary accommodation as well as exploring the possibility of finding alternative accommodation through the Direct Lettings Scheme.
21. The Council’s Direct Lettings Scheme is available to applicants in housing need who are eligible for assistance and in priority need. It provides an opportunity to find accommodation in the private rented sector with assistance from the Council. The Council pays the landlord a deposit (equivalent to one month’s rent) which is refundable to the tenant at the end of the tenancy. The Council supports the applicant’s application for Housing Benefit to ensure the claim is processed quickly. The caseworker will provide a letter of introduction for the landlord or letting agent and a directory of properties. The applicant then calls the landlord or lettings agent

to arrange viewings of selected properties. The direct lettings officer will support the applicant with the search for a suitable property.

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