

## **The Ombudsman's final decision**

Summary: Mr D complains about the service provided by the Council when he was homeless between December 2018 and January 2020. We uphold the complaint. In particular, we find fault in how the Council determined a priority date for Mr D's place on its housing register and its decision to exclude his 18 year old son from his household from September 2019. These faults caused injustice to Mr D including that he missed out on the offer of a three bed property to meet his housing need. The Council accepts these findings and at the end of this statement we set out the action it has agreed to take to remedy this injustice and to avoid a repeat.

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## **The complaint**

1. I have called the complainant 'Mr D'. He complains about the service provided to him by the Council between December 2018 and January 2020 when he and his two children were homeless. Mr D complains the Council:
  - set a new 'priority date' for his place on the Council's housing register from January 2019 after he separated from his wife (Mrs D). Mr D says this was unfair as the couple were homeless from 2017 and their separation did not change that. It was also inconsistent, as the Council did not change Mrs D's 'priority date'.
  - would not accept that from September 2019, Mr D's son ('E'), then aged 18, remained part of his household. Mr D stopped receiving child benefit for E but considered he remained his dependent. The Council's decision to no longer treat E as part of the household meant Mr D could not successfully bid for a three-bed property under its housing allocation policy.
  - that between July and December 2019 the Council gave him confusing and contradictory advice about the size of property he could bid for under its housing allocation (nominations) policy. This led Mr D to believe he could bid for a three-bed property notwithstanding the advice it earlier gave him about no longer treating E as a member of his household.
2. Mr D says because of the above he was potentially homeless for longer than needed. He is also unhappy his family is now separated as E lives with a grandparent. This has caused them all distress. Mr D also considers the Council's communications, including in their tone, have added to his distress.

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## **The Ombudsman's role and powers**

3. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. *(Local Government Act 1974, section 34(3), as amended)*
4. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. *(Local Government Act 1974, sections 26(1) and 26A(1), as amended)*
5. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. *(Local Government Act 1974, section 30(1B) and 34H(i), as amended)*

## **How I considered this complaint**

6. Before issuing this decision I considered:
  - Mr D's written complaint to the Ombudsman and any supporting information he provided by telephone or email;
  - the Council's reply to Mr D's complaint pre-dating our investigation;
  - further information provided by the Council sent in reply to my written enquiries;
  - relevant legal and administrative considerations summarised below;
  - comments made by Mr D and the Council in response to a draft decision statement where I set out my proposed findings.

## **What I found**

### **Relevant Legal & Administrative Considerations**

#### **Homelessness**

7. Part 7 of the Housing Act 1996 and government guidance contained in the Homelessness Code of Guidance for Local Authorities set out councils' powers and duties to people who are homeless or threatened with homelessness.
8. If a council has 'reason to believe' someone may be homeless or threatened with homelessness, it must take a homelessness application and make inquiries. The threshold for taking an application is low. The person does not have to complete a specific form or approach a particular council department. *(Housing Act 1996, section 184 and Homelessness Code of Guidance paragraphs 6.2 and 18.5)*
9. A council must secure interim accommodation for applicants and their household if it has reason to believe they may be homeless, eligible for assistance and have a priority need. *(Housing Act 1996, section 188)*
10. Examples of applicants in priority need are:
  - people with dependent children;
  - pregnant women;
  - people who are vulnerable due to serious health problems, disability or old age.

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11. If a council is satisfied an applicant is homeless, eligible for assistance, and has a priority need then it has a duty to secure that accommodation is available for their occupation. (*Housing Act 1996, section 193 and Homelessness Code of Guidance 15.39*)
  12. Applications are made by individuals. Both the Housing Act 1996 and the Homelessness Code of Guidance refer to 'a person' making an application. The Courts have said "*I am quite unable to conclude that an application for housing as a homeless person falls to be treated as being made by a family unit. It is, and must be, an application at the instance by an individual.*" (*MacLeod (aka Hynds) v Midlothian District Council 1986*)
  13. However, there is nothing to stop more than one individual in a household applying for accommodation at the same time. The Courts have held that "*where the application made to the authority is a joint application, it is a joint application which the authority must determine. If there is no request by one of two joint applicants for his or her case to be treated separately, there is no obligation upon the authority to deal with the application as being other than a joint application.*" (*R v Wandsworth LBC ex p Lord, 1985*). The Courts have also held an authority can receive two applications in a single document (*Hemans v Windsor & Maidenhead RBC [2011]EWCA Civ 374*).
  14. Government Guidance provides advice that where an applicant submits a repeat application as homeless, following an earlier refusal, it must consider if this is a new application or one based on previous circumstances. It says: "*if an applicant makes a further application following a relationship breakdown which has changed membership of the household this should be treated as a new application following a factual change of circumstances*" (*Homelessness Code of Guidance paragraph 18.13*)
  15. The law does not define who is a 'dependent child'. The Government Homelessness Code of Guidance says "*housing authorities may wish to treat as dependent all children under 16, and all children aged 16-18 who are in, or are about to begin, full-time education or training or who for other reasons are unable to support themselves and who live at home. The meaning of dependency is not however, limited to financial dependency. Thus, while children aged 16 and over who are in full-time employment and are financially independent of their parents would not normally be considered to be dependents, housing authorities should remember that such children may not be sufficiently mature to live independently of their parents, and there may be sound reasons for considering them to be dependent. The Secretary of State considers that it will be very rare that a 16 or 17-year-old child who is living at home will not be considered to be dependent*".
  16. The Courts have held that the reference to "16 to 18" year old children in the guidance quoted above extends to all children aged 18 (i.e. until the 19<sup>th</sup> birthday). (*see Miah v Newham LBC [2001] EWCA Civ 487*).
  17. The Courts have also held that a Council can interpret the word "household" on its "normal everyday usage". The Court of Appeal held Councils have discretion whether to include 'adult' children as part of a household when allocating housing "*as they consider appropriate*". (*see Ariemuguvbe v Islington LBC 2009*)

### **Housing Allocations**

18. All Local Housing Authorities are required to have a published allocation scheme which sets out how they assess and prioritise applications for housing. Local housing authorities are required to give 'reasonable preference' to certain categories of people including applicants who are homeless. Authorities will often

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do this through use of 'banding'; awarding a higher priority or 'banding' to those considered in more housing need.

19. Many local housing authorities run a choice based letting scheme in partnership with social landlords such as housing associations. This means that applicants will receive updates (usually weekly) advertising social housing becoming vacant. The applicant can bid for a property if the advert indicates they are in a banding that can do so, and the property meets the bedroom requirements for their household.

### **The Council's Policy**

20. Of relevance to this complaint is the Council's Nominations Policy, published in 2015 and available via the Council's website. This explains the Council does not own any housing stock. It explains how it will prioritise households in housing need on its housing register by placing them in bands. It will then nominate them for social housing that becomes available. The policy explains the authority generally uses a choice-based approach as I have described at paragraph 19 (although there is an exception for homeless households which I explain below).
21. Of relevance to this complaint I note the following extracts from the policy:
- that *"in most cases only people living with the applicant as part of their household can be included in the application. People included in the application as part of the household will normally be either partners or dependent children. If a decision is made that people will not be included in the household the applicant will be notified in writing, explaining the reasons for the decision and the applicant's right to request a review"*;
  - that *"applicants will need to be in receipt of child benefit for all dependent children included on their application"*;
  - it continues: *"non-dependent children [...] will not normally be considered to be part of the household unless there is some form of dependency. For example, full time care givers or receivers. This is due to the shortage of family sized social housing and the high demand for larger properties by reasonable preference groups"*;
  - applicants can apply jointly to join the housing register; applicants who are homeless are automatically placed in 'Band D' until the Council decides on whether it owes a duty to re-house them (see paragraph 11). At which point the Council may award a higher priority;
  - the 'priority date' given to applications is the 'date of application'. If an applicant's circumstances change and their banding changes as a result, then *"so may their priority date"*;
  - a tie-breaker for households in the same priority banding is the priority date given to their application;
  - applicants *"must report any material change in their circumstances without delay"*. They can also lose their priority date if they move out of temporary accommodation for more than seven days (shorter absences being agreed with written permission); something the policy says should only apply in *"exceptional circumstances such as a bereavement"*. An absence of more than seven days will result in a change to the priority date;
  - for homeless households the Council reserves the right, after two months, to make an "assisted bid" for housing on their behalf. This can then discharge its duty under homelessness legislation (see paragraph 11).

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22. The policy does not refer to what happens where there are changes in household composition; for example, because of birth, death, separation or a child leaving home.

### **Chronology/Key Facts**

23. In 2017 Mr D lived with Mrs D in a private rented property. They had four dependent children. They became homeless when their landlord repossessed their property. They presented themselves to the Council as homeless. Mr and Mrs D attended an interview with a Council housing officer where they explained their circumstances. Both signed to say the record of the interview was accurate. But only Mrs D signed the final declaration on the form as claimant. There is space on the form for a second signatory but this was left blank.
24. The Council accepted Mr and Mrs D were homeless and in priority need. When it wrote to advise of its decision, the Council addressed its letter to both Mr and Mrs D. Its correspondence made no reference to either being considered a "lead applicant".
25. The Council says at the same time it 'placed' the household on its housing register. It gave that application the priority date of November 2017.
26. It treated Mrs D as the 'lead applicant' for both the homeless application and on its housing register.
27. In December 2018 Mr and Mrs D separated. Mr D advised the Council on 21 December 2018, within a week of the separation occurring. Mr D and two children, including E, then aged 17, moved in with one of Mr D's parents. Mr D explained to the Council that he could not stay with his parent due to limited room and the parent provided a letter in January 2019 to confirm this. The Council then provided Mr D with temporary three-bed accommodation. Around the same time Mr D became aware that Mrs D had received an offer of permanent accommodation and the Council had discharged its housing duty to her.
28. In its communications with Mr D in January 2019 the Council said: "*If you recall the original application was in the name of [Mrs D], therefore she retains the original application and a new homeless application will be completed with yourself*".
29. In March 2019, the Council decided Mr D was homeless and in priority need. It set a priority date for Mr D's place on its housing register as January 2019.
30. During the early months of 2019 Mr D could bid for three-bed properties via the Council's housing allocation scheme. In May 2019 E turned 18. Around this time Mr D entered correspondence with the Council about the impact this had on his housing need. Mr D told the Council he would continue to receive child benefit for E until September. From that date E would attend a local further education college, studying for a degree-equivalent qualification. After sending three emails chasing a reply, the Council told Mr D that while he could bid for three-bed properties currently this would stop when E stopped receiving child benefit. Mr D asked if he could bid for two-bed properties. To which the Council replied: "*we would not be able to allocate permanent accommodation smaller than what you require*".
31. At the beginning of July 2019 Mr D wrote to the Council again and said: "*I have been told different stories in regards to what I am entitled to now my son is 18 and classed as a non dependant (He is staying in education) Told I am not entitled to*

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*3 bed and only 2 bed but can't go for 2 bed as if [E] stays with us it is classed as overcrowding. But then also told I am still entitled to a 3 bed and not 2".*

32. In response, the same housing officer who replied to Mr D's previous email repeated the advice given Mr D previously – that while he could currently bid for a three bed property, once E's child benefit stopped he could only bid for a two-bed property.
33. In September 2019 Mr D contacted the Council to ask if he had now reached the point where he could no longer bid for a three-bed property. He said E still lived with him but would move to his grandparent's home. The Council said that *"as you are no longer in receipt of child benefit your requirement is now a 2-bed need"*. But then a week later: *"your application is still live as 3-bed as [E] is still living with you"*. At this time Mr D queried why the Council regarded E as a non-dependent as he remained in full time education. He also said he was 'trapped' as he could not bid for either a three-bed or a two-bed property. A note around this time also indicates Mr D spoke to the Council as its officer said they had discussed Mr D's case with a manager and *"advised that [Mr D] may be entitled to bid for 3-bed and discussion would be had with legal"*.
34. Mr D continued to try and clarify what properties he could bid for in October 2019. He also made a complaint being dissatisfied with various matters as I summarised in paragraph 1. He was told to await a reply to his complaint for clarification.
35. In December 2019 Mr D found he could still bid for a three-bed house via the Council's housing register and thought he had been successful when he was listed first for a property. However, the Council intervened and prevented Mr D securing that tenancy, saying his circumstances meant he could only bid for a two-bed property.
36. In January 2020 Mr D bid successfully for a two-bed Housing Association property. This discharged the Council's duty to provide him with accommodation. E moved back in with Mr D's parent. Neither Mr D or E wanted to live separately and both would prefer to remain in the same household to this day. Mr D's tenancy prevents his son moving in with him.

### **Council response to complaints and my enquiries**

37. In its first reply to Mr D's complaint, sent in November 2019, the Council said:
  - if Mr D secured a three bed property then he could receive local housing allowance (housing benefit) based on the rate for a three bed property; it gave him information about a bond scheme to help homeless families secure accommodation in the private rented sector;
  - but Mr D could only bid from the housing register for a two-bed property. Because E's child benefit ended in September 2019, *"under the Council's Housing Nominations Policy 2015 your son is classed as a non-dependent and can apply in his own right for the Housing Register"*.
  - its decision on the priority date awarded to Mr D's application was correct. It could not discuss the priority date awarded to Mrs D's case.
38. In its final reply to Mr D's complaint, in December 2019, a Housing Manager told him the Council believed it had clearly explained, on more than one occasion, that he could not bid for a three-bed property via its housing register after September 2019. However, Mr D would be eligible to receive local housing allowance based on the three-bed rate if he secured a three bed property. The Council said to

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discharge its duty to prevent his homelessness, it may still offer Mr D three-bed accommodation. For example, in the private rented sector.

39. In its reply to my enquiries the Council has said that in November 2017 it treated Mrs D as the 'lead applicant' when the family became homeless because the law does not allow it to accept 'joint applications' for homelessness. It also says that even if Mr D had kept the November 2017 start date on his application, it would not have offered him three bed accommodation before December 2019. By which time Mr D was only entitled to bid for two-bed accommodation. To support this, the Council has provided me a spreadsheet showing details of offers of three bed accommodation made to households with the same priority as Mr D between December 2018 and September 2019. All successful applicants had a priority date between 2015 and July 2017.
40. The Council also says that even if it had treated Mr D as the 'lead applicant' when he first became homeless, he would have still lost his original priority date in December 2018. This is because he vacated the temporary accommodation for more than seven days.
41. On the question of which children it treats as 'dependents', the Council says it has decided not to follow the suggested approach set out in government guidance (see paragraph 15). The Council says instead that once child benefit ends, it considers a child to have become a non-dependent. It says that students such as E can seek independent financial support.
42. The Council says that it now accepts in September 2019 it gave Mr D wrong advice that he could continue to bid for three bed properties while his son still lived in his household. It says this "*was not the case as [E] was no longer eligible for child benefit*". But in comments to me the Council has also suggested that Mr D was always able to apply for a two bed property (including when E lived with him) via its housing register.

## **My findings**

### **The complaint about Mr D's priority date**

43. In most cases, where a couple become homeless, they will present themselves to the Council as a couple. But the law does not recognise the concept that they can make a 'joint application' for assistance. In some circumstances it will be obvious that one member of the couple is making the application on behalf of the other. In those cases, I think it reasonable the Council treat that member of the couple as the 'lead applicant'. But in other cases, the Council will need to either accept two applications at the outset or explain clearly to couples that it will treat one as the 'lead applicant' and explain the implications of that. This in turn may lead both members of the couple to apply, to protect their respective positions.
44. In this instance I do not find there is any evidence that should have led the Council to have preferred Mrs D as the 'lead applicant' ahead of Mr D (or vice versa). Both attended the interview with the Council to explain their circumstances. Both signed the record of the interview. Neither's circumstances suggested one should make the application on behalf the other (as may be the case for example if two members of a couple have different immigration status meaning there is a clear logic to one making the application on behalf of both).
45. I note only Mrs D signed the application form, but I do not find this persuasive. Because from all it has told me, the Council has reserved to itself the practice of choosing a 'lead applicant' where it receives homeless applications from a couple.

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This leads me to find it only gave Mrs D the option of signing the form and did not extend that to Mr D.

46. In addition, I also find no record of the Council explaining its decision to treat Mrs D as the 'lead applicant' in November 2017. Its letter accepting the household was homeless and in priority need was addressed to 'Mr and Mrs'. There is nothing in that letter or the note of the interview to suggest the Council told Mr and Mrs D of its approach or its potential implications. Those implications extended to the decision taken by the Council when it 'placed' the household on its housing register. This choice of wording appears to show that it again took it upon itself to choose Mrs D as the lead applicant.
47. I find the Council's decision to treat Mrs D as the lead applicant flawed therefore. As there is nothing in the contemporaneous record to explain this decision and no record of it being communicated to Mr D.
48. I must go on to consider the consequence of this fault. The Council has sought to persuade me that even if it had initially treated both Mr and Mrs D as having the same priority date, Mr D would have lost his priority date in December 2018 when he left temporary accommodation. I note this is what the Council's policy says.
49. However, I find the policy flawed. It accepts there will be 'exceptional circumstances' where an applicant may be away from their temporary accommodation. While the policy gives the example of a bereavement, this is clearly only an example. A relationship breakdown is also an exceptional event in anyone's life. I see no reason to find the policy would not encompass such an event. But the policy then sets an arbitrary limit in saying that such circumstances will expire after a week. The Council is fettering its discretion with its current policy. That is a fault.
50. I also think it stretches credulity the Council would expect couples who have had an irretrievable breakdown in relations to continue to reside in the same temporary accommodation, purely so as not to lose their priority date.
51. I have considered next whether the Homelessness Code of Guidance provides some alternative cover for the Council's actions. I have quoted that extract which suggests it might (see paragraph 14). But I note the guidance gives this advice in the context of where one half of a previously unsuccessful couple presents a second time to the Council as homeless. That was not the circumstance here as the Council accepted Mr D was part of a homeless household in priority need in November 2017. Therefore, I do not consider this provides justification for the Council's actions either.
52. On balance therefore I am not satisfied the Council took the correct action when it re-set Mr D's priority date to January 2019 following his separation. It should have kept Mr D's priority date as November 2017. He was homeless throughout that time and the Council has never found (and nor do the facts suggest) he ever stopped being in priority need.
53. In considering the injustice caused to Mr D, I accept it does not follow automatically that this means Mr D missed out on an offer of accommodation which may have followed him keeping the earlier priority date. The evidence provided by the Council shows that households with the same priority band offered three-bed housing before September 2019 all had earlier priority dates than November 2017. Mr D would not have secured a three-bed house via the housing allocation policy before December 2019. And the Council argues it could not nominate Mr D for a three bed property at that time as E could no longer be



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considered part of the household, for the purposes of its housing nomination policy. This forms the next part of Mr D's complaint which I address below. I will therefore return to the issue of Mr D's injustice later in this statement.

### **The complaint about treating E as a non-dependent**

54. As I have summarised above the law does not clearly define when a child becomes a non-dependent. Both government guidance and caselaw suggest the position for children under 16 and beyond their nineteenth birthday is fairly clear cut. The former will be dependents while the latter may generally be treated as non-dependent. However, for those aged 16 to 18 the position is nuanced and government guidance reflects this.
55. I accept the Council is not duty bound to follow government guidance on how to treat 16 to 18 year olds when considering the housing need of homeless applicants. But the Council still needs to follow its own nominations policy. This imposes two tests:
- First, is the child in the household a dependent.
  - Second, if the child is a non-dependent, is there still a good reason to treat them as part of the household.
56. The Council also commits that if excluding someone who lives with the applicant as being part of their 'household' it will put that decision in writing and give a right of appeal.
57. I do not find the Council has properly applied itself to these tests in this case and has instead muddled the two. Further, it has adopted a crude measure to decide both questions; that of whether the young person remains in receipt of child benefit. While it does refer to this in its policy, I find the approach fundamentally flawed. Because as government guidance points out dependency is not just a matter of financial dependency. The Council must make a reasoned decision in each case on how it decides a child is a member of the household addressing both questions set out in paragraph 55. By seeking to exclude all other factors than child benefit in answering these questions the Council is again fettering its discretion. Added to this is the Council's failure to make a reasoned decision as set out in its policy. All these considerations mean I find fault in the Council's decision to no longer consider E part of Mr D's household from September 2019.
58. Turning to the injustice this caused Mr D I have considered if the Council could nonetheless have made a reasoned decision to treat E as both a non-dependent and not to include them as part of Mr D's household. I think it possible the Council could have arrived at this conclusion. But before doing so, it needed to consider all the facts around E's attendance in further education. It should also have considered what financial or other dependency E might have on Mr D, notwithstanding his child benefit ending (which would still be a relevant factor to be weighed in its decision). But in the absence of it making the sort of enquiries needed to arrive at this conclusion, I am not inclined to give it the benefit of the doubt.
59. Because against this I note that E remained living at home while embarking on his studies at a local college, supported in doing so by Mr D. There is also the emotional support to consider, with E coping with the family breakdown in December 2018 and the consequences of a long period of uncertainty caused by homelessness. I also take account that when E moved out because of the Council's position on Mr D's application, he did not choose to set up home on his

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own but stayed with close family. This suggests E had a higher dependency on family than some 18 year olds may show.

60. On balance therefore I am inclined to find a proper decision on E's status would have found he remained Mr D's dependent until his nineteenth birthday. Or else E could still be treated as a non-dependent member of the household until that birthday. In which case the injustice caused to Mr D, when combined with that arising from the fault identified in the consideration of his priority date, is that Mr D missed out on the prospect of being allocated a three bed property for his family under the Council's allocation policy. This is a source of avoidable distress for all, as is the enforced time they have spent not living as one family.

### **The complaint about communications**

61. The Council's communications with Mr D about his housing situation in 2019 contain further evidence of fault.
62. I find initially around June 2019 the Council gave Mr D clear advice, albeit one based on a flawed policy approach as I have explained above. I find it was made clear to Mr D that after September 2019, the Council considered he would be no longer eligible to bid for three-bed properties.
63. But in September 2019 the Council contradicted this advice. Now it told Mr D that he may be able to bid for three bed properties from the housing register. It also clearly allowed him to continue to place bids for such properties, which reinforced that advice. This caused unnecessary confusion and that was a fault.
64. The Council also left Mr D in the position where he believed he could not bid for a two-bed property. I am unclear if the Council now says this was also incorrect. But clearly between September and December 2018 the Council left Mr D thinking he could not bid for a two bed property without forcing E to leave the household and nor could he bid for a three bed while E remained.
65. Finally, I note Mr D's concerns about the tone of some of the correspondence he received from the Council. But I found nothing specific that leads me to find further fault. I consider the fault in this case lies in the Council's failure to address two fundamental questions of what priority date it should have applied to Mr D's case after his separation from Mrs D and how it treated his son's place in the household during his eighteenth year.

### **Agreed action**

66. The Council accepts the findings I have set out above. To remedy the injustice caused to Mr D it has agreed that within 20 working days of a decision on this complaint it will:
- a) provide Mr D with a written apology accepting the findings of this investigation;
  - b) provide him with a payment of £500 in recognition of his distress.
  - c) give a written commitment that it will seek to find Mr D a suitable three bed property from a social landlord; this will not be a flat and nor will it be in one area of the Council's district where Mr D has explained it would be unsuitable for him to reside; the Council will have discharged its commitment at the time a social landlord makes an offer to Mr D; it will not be expected to negotiate further offers in the event Mr D declines although Mr D can make a further complaint to this office should he consider the offer unsuitable for any reason.

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67. I am satisfied the commitment agreed at c) above will put Mr D back in a comparable position to that at December 2019.
68. The Council has also agreed to learn lessons from this complaint. It has said that it has now:
- a) ended the practice of choosing who it treats as the 'lead applicant' for purposes of homeless legislation; its starting position is now to treat couples as joint applicants for homeless purposes; both will keep the same priority date in the event they separate;
  - b) ended the practice of automatically placing homeless couples on the housing register and choosing a lead applicant; it is now down to the applicants to register themselves;
  - c) given advice to housing officers to make case specific decisions on whether children aged 18 or over in the household are non-dependent; this will take account of their education status and any evidence of financial, emotional or other dependence needs;
  - d) given advice to housing officers to make case specific decisions on whether to change priority date following an absence from temporary accommodation to consider each on their merits.
69. The Council has said that it will publicise the changes at a) and b) on its website. It will look to encompass the changes at c) and d) into a revised nominations policy which it expects to publish around September 2021. In that policy the Council will also seek to include more information about the impact of changes in household composition on housing need and priority to include circumstances of family separation.

### **Final decision**

70. For reasons set out above I have upheld this complaint finding fault by the Council causing injustice to Mr D. I am satisfied the Council has agreed action that will remedy that injustice and avoid a repeat. Consequently, I can complete my investigation satisfied with its response.

### **Investigator's decision on behalf of the Ombudsman**