

# Report by the Local Government Ombudsman

## Investigation into a complaint against Doncaster Metropolitan Borough Council (reference number 13 001 144)

**3 March 2014**

## The Ombudsman's role

For nearly 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

# Investigation into complaint number 13 001 144 against Doncaster Metropolitan Borough Council

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Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

## Key to names used

Miss X – the complainant

Mr and Mrs X – the complainant’s parents

Mr and Mrs Y – the parents of Miss X’s boyfriend who witnessed some events

Mr Z – the complainant’s representative from a local housing support group and witness to some events

## Report summary

### Children's services and homelessness

Miss X complains the Council failed to assess her as a 'child in need', and then failed to provide her with accommodation, after she told the Council in May 2012 she was homeless and fleeing abuse in her family home. She also complains that the Council failed to respond to her complaint which was covered by the statutory children's services complaints procedure.

### Finding

Fault found causing injustice and recommendations made.

### Recommendations

The Council has agreed to carry out the following recommendations to remedy the injustice caused:

- apologise to Miss X for failing to assess her as a 'child in need' and failing to take appropriate action;
- pay Miss X £500 to acknowledge the distress it caused to her and the unnecessary risk it placed her in by not providing her with accommodation when she was homeless and most likely a 'child in need';
- review its 'Joint Protocol for Young People Aged 16-17 Years in Housing Need' within three months of our final decision;
- apologise to Miss X and her representative Mr Z for its failure to respond to her complaint;
- pay Miss X £100 to acknowledge the uncertainty, distress and time and trouble caused to her by its failure to respond to her complaint; and
- review its administrative procedures for complying with the statutory requirements under the Children Act 1989 complaints procedure to ensure that in future it responds to complaints. As confirmation of the review it will send us a copy of this review within three months of our final decision.

## Introduction

1. Miss X, who at the time was 17 years old, ran away from home in May 2012 as she says she had been subjected to physical and emotional harm by her father. She complains that after she went to the Council to ask for help it:
  - failed to carry out proper assessment of her as a 'child in need';
  - failed to properly consider if she was homeless and in need of accommodation under section 20 of the Children Act 1989; and
  - failed to respond to a complaint made on her behalf in June 2012.

## Legal and administrative background

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, we have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and if it has, she may suggest a remedy. (Local Government Act 1974, sections 26(1) and 26A(1))
3. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (Local Government Act 1974, section 34(3))
4. The complaint is against Doncaster Metropolitan Borough Council (the Council). Any references to 'the Council' in this report are to Doncaster Metropolitan Borough Council. North Yorkshire County Council was involved in some of the events of this complaint. Where we have referred to those events we have named North Yorkshire County Council.

## The Children Act 1989

5. Section 17 states it shall be the general duty of every local authority:
  - to safeguard and promote the welfare of children within their area who are in need; and
  - so far as is consistent with that duty, to promote the upbringing of such children by their families.
6. The Act defines children as 'in need' if their vulnerability is such that they are unlikely to reach or maintain a satisfactory level of health and development, or their health and development will be significantly impaired without the provision of services. Some children are in need because they are suffering or likely to suffer significant harm.
7. An Initial Assessment is used to determine if the child is in need. At the time of the events in this complaint the guidance on conducting Initial Assessments was contained in the 'Framework for the Assessment of Children in Need and their Families (2000)' and 'Working Together to Safeguard Children (2010)'. This guidance was replaced in April 2013 by 'Working Together to Safeguard Children – A guide to inter-agency working to safeguard and promote welfare of children (2013)'. An Initial Assessment will also set out the nature of the services required to support the child or their family under section 17.

8. Section 47 states that if councils have reasonable cause to suspect that a child who lives, or is found, in their area is suffering, or is likely to suffer, significant harm, the authority shall make, or cause to be made, such enquiries as they consider necessary to enable them to decide whether they should take any action to safeguard or promote the child's welfare.
9. Section 20(3) states every local authority with responsibility for children's services must provide accommodation for any 'child in need' within their area who has reached the age of 16 and whose welfare the authority considers is likely to be 'seriously prejudiced' if they do not provide him or her with accommodation.
10. Section 20(4) states councils may provide accommodation for any child within their area (even though a person who has parental responsibility for him is able to provide him with accommodation) if they consider that to do so would safeguard or promote the child's welfare.

### **The statutory guidance 'Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation 2010'**

11. The Guidance states:
  - Where a 16 or 17 year old approaches children's services as appearing to be homeless, children's services must assess whether the young person is a 'child in need' and whether any duty is owed under section 20 of the Children Act 1989 to provide them with accommodation. (Paragraph 2.15)
  - When a young person presents as homeless, children's services should undertake and complete an Initial Assessment as soon as possible and no later than the 10 days set out in the 'Framework for the Assessment of Children in Need and their Families'. The assessment of the young person will need to decide whether the young person can return home, with support for them or their family if necessary, or whether this is not a possible or safe option. (Paragraph 2.27)
  - Where it appears the young person has nowhere safe to stay for the night children's services must secure suitable emergency accommodation for them while it assesses their needs. (Paragraph 2.16)
  - As a result of being accommodated that young person will become a 'looked after child' and be owed duties that are owed to all 'looked after children'. (Paragraph 2.23)
  - Where a 16 or 17 year old who was living in one council area moves to another council area and asks for help from that council, the duty to assess falls on the council where they ask for help. The authority cannot refuse to consider the young person's immediate needs and expect them to return to the authority in the area presumed to be their 'home' district. An initial interview, perhaps with enquiries in the area where the young person came from, should be enough to understand why they have sought help in this area rather than their home district. It may be possible for the authority where the young person has asked for help to negotiate with their home authority to take over the assessment of that young person's needs so that

the young person is assessed in a familiar setting close to their family and friends.  
(Paragraphs 2.41 and 2.42)

### **The Council's policy 'Joint Protocol for Young People Aged 16-17 Years in Housing Need' January 2011**

12. The Council's policy states any homeless child over 16 is not necessarily a 'child in need'. It states this will need to be determined by assessment.
13. On those occasions when a young person from elsewhere presents as homeless in Doncaster the Council's policy states:

*"Where [young people] who are ordinarily resident elsewhere present as homeless in Doncaster, the priority will be to return these [young people] to their own area where the home local authority will take responsibility for the [young person's] case. As per the Climbie recommendation, the case cannot be considered as transferred to the home authority until the relevant First Line Manager in that authority has confirmed acceptance in writing (fax/email will suffice). If the home area manager unreasonably declines the referral the matter should be escalated up the appropriate management lines in both authorities and – if need be – legal advice taken on action to take given the refusal. Where needed, travel warrants can be supplied through [its Children's Assessment Service], although, before issuing the warrant, all reasonable efforts should be made to get the home authority to confirm they will reimburse the cost of the warrant."*

14. In the case *R (on the application of G) v London Borough of Southwark [2009] UKHL 26* the Court considered whether a duty is owed to a child who claims they are homeless under the Children Act 1989 or the homelessness legislation. The Lords ruled that the primary duty to accommodate lay under the Children Act 1989, rather than the Housing Act 1996.
15. In referring to this judgment the Council's policy says:

*"The Lords ruled that the duty under the Children Act 1989 is primary. So, if the child does come within s20, the ongoing duty to accommodate will normally fall to the children's services authority (CYPS), and not 'housing'. That is, the [young person] should enter foster care, residential care (or a suitable alternative). Most homeless 16 -17-year-olds will be 'children in need', and so, other than in exceptional cases or where they decline s20, [it will] trigger the section 20 duty to place children in care either immediately or following further assessment. If a child becomes subject to s20 care, this protocol will not apply. For all others, it will. The Southwark judgement does not mean all 16 & 17 yr olds should automatically enter care immediately on presenting as homeless. Assessments are still needed under both childcare law and housing law."*

### **The statutory children's services complaints procedure**

16. When a child or young person wants to make a complaint about the actions, decisions or apparent failings of a council's children's social services provision councils must follow a statutory complaints procedure.

17. There are three stages to the complaints procedure as set out in The Children Act 1989 Representations Procedure (England) Regulations 2006 (the Regulations). The statutory guidance for these complaints 'Getting the Best from Complaints, Social Care Complaints and Representations for Children, Young People and Others 2006' informs councils of the procedures to follow. These are:
- Stage 1 – local resolution. Councils must respond within 10 working days of receiving a complaint from a young person about its children's services. Councils may extend this period to a further 10 working days where they consider the complaint to be complex. If the timescale to complete a Stage 1 investigation has elapsed councils must inform the complainant that they have a right to move on to Stage 2.
  - Stage 2 – investigation by an Investigating Officer overseen by an independent person. When a complaint is not resolved at Stage 1, or when the council agrees the complaint should miss out Stage 1, councils must respond to a complaint at Stage 2 within 25 working days. This can increase to a maximum of 65 working days for more complex cases.
  - Stage 3 – review by an Independent Review Panel. Councils must arrange for an Independent Review Panel to be held within 30 working days of a request for a Panel after the completion of a Stage 2 investigation.
18. The statutory guidance states the key principles of a good complaints procedure are that children and young people who make complaints have their concerns resolved swiftly and preferably locally. The complaints procedure should be a useful tool for indicating where services may need improving.

## How we considered this complaint

19. This report has been produced following the examination of relevant files and documents and interviews with the complainant's representative and Mrs Y.
20. Information was also received from North Yorkshire County Council regarding the safeguarding referral received from Doncaster.
21. The complainant, the Council, and North Yorkshire County Council (as a third party) were given a confidential draft of this report and invited to comment before the report was finalised.

## Investigation

### **Miss X's decision to leave home and travel to Doncaster in 2012**

22. Miss X, who was 17 years old at the time, lived with her mother and three siblings at a property in North Yorkshire. She says although her parents were officially separated her father continued to visit the home regularly.



23. Miss X ran away from home on 20 May 2012 and went to Mr and Mrs Y's home in the Doncaster area. Mr and Mrs Y are the parents of Miss X's boyfriend. She later said nothing had particularly happened the day she left home but she said she constantly felt frightened and stressed at home.
24. Miss X's mother, Mrs X found out where her daughter was staying and travelled to Doncaster. Miss X says her mother told her that if she came home she would protect her from her father Mr X. Mr X then entered Mr and Mrs Y's house. Mrs Y says Mr X became abusive and threatened to hurt Miss X and Mrs Y and her children. They say he also threatened to burn Mrs Y's house down. Miss X ran away and the Police were called. However Miss X says the Police would not take any action as a crime had not been committed.
25. Miss X alleges her father then sent people to watch Mr and Mrs Y's house and she did not feel safe. Miss X refused to go home to North Yorkshire. She said she was too afraid. Mrs Y says she agreed to shelter Miss X temporarily. On 21 May Mrs Y took Miss X to stay with a relative. On 22 May Miss X spent the night at an emergency homelessness centre for adults, provided by a local housing and support group.
26. On 23 May Miss X went to the Council's offices in Doncaster with Mr Z, a representative from the local housing and support group. Miss X told the Council that she was homeless and explained what had happened. She told the Council her father had been physically violent towards her since the age of nine and had left her with injuries in the past. The Council's notes of the meeting record Miss X presented as "*extremely emotional*".
27. She told the Council her father was "*extremely controlling*". She also told the Council of her concerns for her younger siblings. She said her father had hit her brother within the last two weeks as he had been excluded from school. As a result her brother had bruised ribs, a swollen lip and a limp.
28. Miss X says that after listening to her the Council decided, without a proper assessment of her, that she should either:
  - return home to North Yorkshire even though she had alleged physical and emotional harm; or
  - return to Mrs Y's home even though the Council was aware Mr X knew Mrs Y's home address and had already made threats to Miss X and Mrs Y.
29. The Council decided it was not responsible for Miss X as it was not her home authority. The Council decided that Miss X should be referred back to North Yorkshire County Council to investigate what support Miss X may need and to investigate if her siblings were at risk of harm.

30. The Council gave Miss X £50 as a discretionary payment under section 17 of the Children Act 1989 to travel back to North Yorkshire so that council could provide services that she may need. The Council also told Miss X that if her father threatened her again she should call the Police. Miss X told the Council she would not return to North Yorkshire as she felt too scared to return home to her family. She told the Council she had no choice but to stay with Mrs Y temporarily despite the threats her father had made.
31. That day the Council called North Yorkshire County Council and passed on Miss X's allegations about her siblings. North Yorkshire County Council agreed to assess Miss X's siblings but it said the Council was responsible for assessing Miss X as this is the area she presented as needing support. The Council decided it disagreed with North Yorkshire County Council's view and did not assess her. There is no evidence the Council told North Yorkshire County Council it had refused to assess Miss X.
32. Later that day Mr Z, from the local housing support group, telephoned the Council asking why it had not carried out an Initial Assessment of Miss X. He pointed out she had disclosed historic physical abuse and may still be at risk of harm while living in Doncaster. The Council refused to change its position.
33. On 24 May 2012 Miss X approached the Council's Housing Department for help with homelessness. It contacted the Council's Children's Services Department who stated the Council was not responsible for Miss X as she was not 'ordinarily resident' there. The Housing Department decided to take no further action.
34. In June 2012 Miss X went to live in supported lodgings provided by a local charity which provides support and accommodation for homeless and vulnerably housed young people. She lived there for around two weeks but said she felt isolated. She returned to Mrs Y's home where she still lives. She says she has had almost no contact with her family, including her siblings, since she left home.
35. In response to our investigation the Council accepts it did not assess Miss X as a 'child in need', did not carry out a homelessness assessment, and did not carry out any safeguarding enquiries. Its reasons at the time were that she was not 'ordinarily resident' in its area.
36. After reviewing the case as part of our investigation, the Council says:
  - it does not accept Miss X was homeless as she could have returned to her mother;
  - there was no evidence there had been an event which led to Miss X's decision to leave the family home and travel to Doncaster three days earlier;
  - it does not consider Miss X was a 'child in need' and so it was not under a duty to provide accommodation to her under section 20(3) of the Children Act 1989. It says given her age, her ability to decide where she wanted to live, and the fact she removed herself from any imminent risk by choosing to reside with Mr and Mrs Y meant she was with adults who were able to safeguard her should the need arise.

37. North Yorkshire County Council has provided us with its assessments of Miss X's siblings from 2012. It took North Yorkshire County Council seven weeks to complete its assessments of the siblings. It decided to take no further action as it had no concerns about her siblings. North Yorkshire County Council has accepted it failed to tell Doncaster Council the outcome of its assessment.
38. Events which occurred since those described here provide evidence which supports Miss X's claim that she may not have been safe to return home because of her father's behaviour and her mother's inability to protect her.

### **Miss X's complaint to the Council**

39. On 25 May 2012 the local housing and support group wrote to the Council on Miss X's behalf. It complained the Council had failed to assess Miss X as a 'child in need' and failed to provide her with accommodation. As it did not receive a response from the Council it wrote again on 6 June 2012. The Council acknowledged the complaint explaining a response should be received in 10 working days. The Council wrote again in July 2012 to apologise for the delay and again in August 2012 to say a response would be received by middle of September 2012. However there was no further response from the Council to this complaint.
40. The Council says its Complaints Department actively chased other departments for a response to the letter of complaint on several occasions. The Council says its Children's Services Department had provided a verbal response to its Legal Department. However it says there is no record of the Council ever drafting a written response to the housing support group about Miss X's complaint.

## **Findings**

### ***Failure to carry out an Initial Assessment***

41. The Council says it did not assess Miss X as a 'child in need' or as a homeless young person as it felt it was not under any duty. It considered that duty remained with the council she was 'ordinarily resident', North Yorkshire County Council. The Council's decision is flawed as section 17 of the Children Act 1989 does not require a child to be 'ordinarily resident' in a council's area. Miss X was within the Council's area when she asked for help and the Council should have considered her claims she was a 'child in need'.
42. The Council should have carried out an Initial Assessment of Miss X to determine whether she was a 'child in need'. An Initial Assessment is required as part of the statutory guidance on providing accommodation to 16 and 17 year olds. Without an Initial Assessment there is not enough evidence the Council considered all the relevant matters that it would consider by conducting such an assessment. These include: her health and development; welfare; family situation; housing; and education.

### **Failure to safeguard Miss X**

43. Miss X had made serious and specific allegations that she had suffered physical and emotional harm over a long period. She also alleged her father had threatened to harm her a few days earlier. Therefore we consider there was enough reason to suspect she may have suffered, or be likely to suffer, significant harm. As a result we consider the Council should have carried out safeguarding enquiries and at least held a strategy discussion, whether or not she ordinarily lived in its area, and whether or not there was any evidence of harm to her siblings. The Council failed to carry out these enquiries.
44. The Council disagrees with our view. It considers that given the historical nature of Miss X's allegations it did not "*have reasonable cause to suspect a likelihood of significant harm*" as required by section 47 of the Children Act 1989. It also considers any referral to North Yorkshire County Council should have been enough to cause that council to make safeguarding enquires of Miss X. The Council says it recently asked North Yorkshire County Council about the assessments it made of Miss X's siblings. It says North Yorkshire County Council did not raise any concerns about her siblings and closed its case in July 2012. It is clear North Yorkshire County Council told the Council that Doncaster had the duty to assess Miss X. She had also made allegations her father had threatened her while she was living in the Doncaster area.
45. The Council referred the safeguarding concerns about Miss X's siblings to North Yorkshire County Council. However it did not have any written acceptance by North Yorkshire County Council that it would carry out an assessment of Miss X or that it would provide her with accommodation. Without written acceptance the Council could not assume another council would carry out these necessary checks. Therefore the duty to carry out an assessment still lay with the Council. This is where Miss X had presented her claims she was a 'child in need', homeless, and had received threats of harm from her father. Its failure to carry out safeguarding checks of her was fault.
46. The Council's policy says its priority is to return young people from elsewhere who present in Doncaster as homeless to their own local authority area. In this case the Council's practice was to insist it was not its role to help Miss X as she was not 'ordinarily resident' there. It insisted that was the role of her home authority, North Yorkshire County Council. The statutory guidance is clear that the duty to assess Miss X was the Council's and it was wrong to refuse to consider her immediate needs. Therefore the Council's interpretation of its policy was inconsistent with the legislation.
47. While it may, in some circumstances be preferable for a young person to be returned to the area they have come from and perhaps returned to their family, in some cases it may not be appropriate due to the risk of harm. The Council could only discover whether Miss X could or should return to her home following an assessment (an Initial Assessment), contact with her parents, or if the home authority had agreed to carry out the assessment itself. None of which occurred in this case. By saying its priority is to return the young person to their home authority, without consideration of risk or exceptional circumstances, the Council's policy does not take a balanced approach allowing for exceptional circumstances.

### ***Failure to provide accommodation***

48. Sections 20(3) or 20(4) of the Children Act 1989 do not require a young person to have been ordinarily resident in a council's area before any accommodation is provided.
49. The statutory guidance on providing accommodation to 16 and 17 year olds states where it appears the young person has nowhere safe to stay for the night, children's services must secure suitable emergency accommodation for them while their needs are being assessed. We consider the evidence points to this being the case for Miss X. She had alleged her father had threatened to burn Mr and Mrs Y's house down. Because of her fear for her own safety she had spent the previous night at a homeless shelter meant for adults. If she had felt safe at Mr and Mrs Y's house she would not have returned to the Council, the day after Children's Services had refused to accommodate her, to seek support from its Housing Department. She also would not have felt compelled a few days later to seek accommodation from a charity for homeless young people.
50. Even if the Council was to conclude, following an Initial Assessment, that Miss X was not a 'child in need' it would then need to go on to assess whether the Council owed a housing duty to her under the housing legislation. The Council failed to do this as it had wrongly assumed it had no duty to support young people who are not 'ordinarily resident' in its area. The statutory guidance is clear about those young people who come from one area but seek help in another. The duty to assess the young person lies with the council from which they seek assistance.

### ***Failure to respond to her complaint***

51. The Council failed to respond to Miss X's complaint, made by her representative Mr Z, instead it only provided holding letters, the last of which was in August 2012. The statutory guidance on complaints about children's services says a Stage 1 (local resolution) response should be received in 10 days. Where a council cannot meet the deadline the complainant should be offered a Stage 2 investigation. A Stage 2 (independent investigation) response can take between 25 and 65 working days. Clearly the Council failed to meet these statutory timescales as it failed to provide any response other than holding letters. This is a significant failure of a statutory complaints procedure for children and young people. The Council has accepted it failed to respond to Miss X's complaint due to a breakdown in communication between its departments.

### ***Analysis of any potential injustice***

52. We have considered what may have been the outcome if it were not for the faults we have identified, based on the balance of probabilities.
53. The Council would have needed time to complete an Initial Assessment of Miss X. It would have also had to wait for North Yorkshire County Council to conclude its assessment of her siblings before it could conclude she was safe to return to her home. Therefore we find the Council would have had to accommodate Miss X during these assessments for at least seven weeks. This is the time it took North Yorkshire County Council to complete its assessments.
54. Had the Council accommodated Miss X for more than 13 weeks she would have been entitled to receive leaving care support from 18 years of age as a 'former relevant child'.

55. Information about Mr and Mrs X has emerged since the events described here which confirms Miss X's claims about her father's behaviour were likely to be true and that her mother may not have acted to protect her. The Council objects to our using this information as a comparator. It says the Council did not know this information in May 2012 and North Yorkshire County Council had no concerns about Miss X's siblings when it assessed them in 2012. We accept the Council could not have known about these events at the time. However we consider the information is relevant when reflecting on the referral Miss X made and when assessing any potential injustice caused to Miss X.
56. We consider it is possible Miss X may have been accommodated for more than 13 weeks as North Yorkshire County Council did not tell the Council of the outcome of its assessment for 16 months. However we have assumed that if the Council had provided Miss X with accommodation it would have been proactive in seeking a response from North Yorkshire County Council about Miss X's siblings. As the information about Mr and Mrs X was not known until 2013 we cannot confidently conclude that Miss X would have remained in local authority care for the 13 weeks that would have entitled her to leaving care support.
57. In assessing her injustice we have considered that at no time was Miss X left to live on the streets, nor did her father return to Doncaster to harm her. However she says she was prevented from seeing her siblings.
58. By failing to respond to her complaints, the Council failed to put things right when given the opportunity and this caused Miss X further distress and uncertainty.

## Conclusions

59. We conclude that:
  - The Council was wrong to conclude it was not under any duty to support Miss X as she was not 'ordinarily resident' in its area.
  - The Council could not determine whether Miss X was or was not a 'child in need' or homeless without an Initial Assessment. Without a proper Initial Assessment the Council failed to come to an informed decision as to whether Miss X was a 'child in need' or at risk of harm, or whether her welfare needed to be promoted.
  - The Council failed to properly consider whether safeguarding enquiries were necessary under section 47 of the Children Act 1989. Her allegations were not only historic but current. She alleged ongoing emotional abuse by her father and claimed her father had threatened to harm her while she was living in Doncaster.
  - The Council failed to give proper consideration as to whether it owed a duty to accommodate Miss X under section 20(3) of the Children Act 1989 or whether it should have used its power to accommodate Miss X under section 20(4) of the Children Act 1989.
  - It should have provided Miss X with accommodation while it carried out the necessary checks of her as a 'child in need', her claims her father was still threatening her in Doncaster, and her claims that her father had hurt her siblings.

- The Council's response to insist Miss X returned to North Yorkshire to be with her family was inappropriate, given her allegations of physical and emotional abuse.
60. If the Council had carried out a proper assessment of Miss X as a 'child in need', an assessment of any safeguarding risk to her in Doncaster or of her returning home to North Yorkshire, and, if she was not a 'child in need' carried out an assessment of whether she was homeless, we could not be critical of the Council. We cannot question a council's decision if taken properly (Local Government Act 1974, section 34(3)). However in this case we have found significant failings in the process the Council followed and are therefore critical of its decision.
61. On the balance of probabilities, we therefore find that if Miss X had been properly assessed by the Council:
- it would have established she required accommodation to safeguard her welfare during the period of assessment;
  - she would not have returned to Mrs Y's home as Mr X was aware of her address and had already made threats to harm her and others at that address;
  - she would not have felt compelled to ask a charity for homeless young people to provide her with accommodation; and
  - if she had become a 'looked after child' the Council would have been under a duty to promote her contact with her siblings.
62. The Council was also at fault over its failure to respond to Miss X's complaint, made on her behalf by the local housing support group.

## Decision

63. Fault causing significant injustice. We have recommended a remedy which the Council has accepted. We consider a public report is necessary as there are points of wider public interest in this investigation.

## Recommendations

64. For its failure to assess Miss X as a 'child in need' and its failure to accommodate her (so becoming a 'looked after child') we recommend the Council should:
- apologise to Miss X;
  - pay Miss X £500 to acknowledge the distress it caused to her and the unnecessary risk it placed her in by not providing her with accommodation when she was homeless and most likely a 'child in need'; and

- review within three months of our final decision its 'Joint Protocol for Young People Aged 16-17 Years in Housing Need'. It should ensure it complies with the Children Act 1989 and the statutory guidance 'Provision of Accommodation for 16 and 17 year old young people who may be homeless and/or require accommodation'. It must ensure its policy and practice means it does not automatically refuse to assess or support young people who are not 'ordinarily resident' in its area. The Council should have a balanced approach and allow for exceptional circumstances.

65. For its failure to respond to Miss X's complaint we recommend the Council should:

- apologise to Miss X and her representative Mr Z;
- pay Miss X £100 to acknowledge the uncertainty, distress and time and trouble caused to her by this fault; and
- review its administrative procedures for complying with the statutory complaints procedure to ensure that in future it responds to complaints. As confirmation of the review it will send us a copy of this review within three months of our final decision.

66. The Council says its staff acted in good faith at the time. It says it will learn lessons from our findings. It says this is valuable to the significant programme of practice improvement the Council is taking with its Children and Young People's Services. It has produced an action plan in light of our findings which it will monitor via its senior leadership meetings.