

Embargoed until 00.01hrs Weds 8 Aug 2012

Report

on an investigation into
complaint no 09 017 510 about
Kent County Council and
complaint no 09 017 512 about
Dover District Council

31 July 2012

Investigation into complaint 09 017 510 about Kent County Council and complaint 09 017 512 about Dover District Council

Table of Contents	Page
Report summary	1
Subject	1
Housing (Dover District Council) and children's social care (Kent County Council)	1
Finding	1
Introduction	3
Legal and administrative background	3
Kent County Council's duties as a children's services authority	3
Dover District Council's duties as a housing authority	4
Joint policy on dealing with young homeless people	5
Government Guidance	6
Investigation	7
Findings – Kent County Council	13
Failure to assist J between January and June 2009	13
Action after July 2009	13
After J moved into his flat	14
Findings – Dover District Council	14
Homeless applications	14
Injustice	15
Remedy	15

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 of job role.

Report summary

Subject

Housing (Dover District Council) and children's social care (Kent County Council)

J became homeless when he was 16. As a younger teenager he had been taken into care by Kent County Council and placed with foster parents. He was returned to his mother but she told him to leave when he objected to her relationship with an intravenous drug user.

He applied for housing to Dover Council but was turned away. A youth centre manager told Kent children's services about J. Those contacts were not recorded and for six months Kent children's services did nothing.

J was determined to stay 'clean' of drugs and out of trouble. Although Dover Council would not accept him as homeless it offered him bed and breakfast, registered him for housing and offered him a one bedroom flat. He refused these offers because he did not want to be in areas where he would be tempted back to drugs or crime.

Under the combined pressure from a neighbourhood police officer, the Youth Offending Service, the YMCA and a local drug and alcohol service, Dover offered him another flat from the housing register and J accepted. Dover demanded an adult guarantor for the tenancy. For 6 weeks it refused to accept a £1,000 guarantee from Kent children's services.

Throughout this time J was still a child. He spent nine months sleeping in a tent, sometimes in snow, or on friends' sofas. His tent was vandalised and his physical and mental health suffered – his feet were frequently wet, he had back pain and lost a lot of weight, and developed a chest infection.

The Ombudsman found that:

- Kent County Council acted with maladministration by failing to respond to being told about J and failing to fulfil its duties to him under the Children Act 1989;
- Dover District Council acted with maladministration by failing to fulfil its duties to J under the Housing Act 1996 and to follow its Joint Protocol with Kent.

The Ombudsman says these failures are inexcusable. They happened after important court rulings had clarified the roles and responsibilities that housing authorities and children's services authorities have to homeless children of 16 and 17. She is also particularly critical of Dover's obdurate demands about a guarantee.

J was remarkably determined and resilient in the face of crushingly difficult circumstances and was well supported by the youth centre. The failures of the two Councils could have easily tipped him into a spiral of drug use and crime.

Finding

Maladministration causing injustice.

Remedy

To remedy this injustice the Councils should apologise in writing to J and pay him:

- £3800 as the estimated value of the housing he should have had for 38 weeks
- £3800 which is the equivalent of £100 for each week that he was homeless to reflect the distress and inconvenience of having no home and selling or giving away his belongings
- £2500 to mark their regret for their failures.

The total amount is £10,100 and the Councils should each bear 50% of these payments.

The Councils should undertake audits to satisfy themselves that their staff know about and apply its joint protocol for homeless young people aged 16-21. The results of those audits should be reported to the Executives or the appropriate Scrutiny Committee.

Kent County Council's maladministration in not assessing J as a Child in Need meant it did not provide him with other services and support that he needed. The voluntary sector youth centre stepped in and gave J personal support above and beyond its usual level. Kent County Council should recognise this by thanking the centre and its manager in writing.

Kent County Council's maladministration in not accommodating J under Section 20 of the Children Act means that he did not become entitled to advice and assistance up to the age of 21. To remedy this injustice the Council should agree to treat J as if he was entitled to that support. It should nominate one of the Independent Persons who protect the interests of children in care to monitor what advice and assistance J wants and needs and ensure it is provided to him.

Kent County Council should review its arrangements for receiving and recording telephone calls to its children's services to ensure that important messages are not overlooked. The outcome of that review should be reported to the appropriate Scrutiny Committee.

Dover District Council has already implemented procedural improvements to address some of the areas of concern highlighted by this investigation. It has also agreed to write a letter of apology and pay the proposed compensation.

Kent County Council has yet to respond to the draft findings.

I am satisfied that both Councils have had sufficient opportunity to respond to the draft findings and now await confirmation that they will provide the remedy. I have asked for this within three months of the date of this report.

Introduction

1. Shelter Legal Services support J to complain that Dover District Council and Kent County Council failed in their duties to him when he was 16 and 17 and homeless. He spent nine months sleeping in a tent and occasionally on friends' sofas.

Legal and administrative background

Kent County Council's duties as a children's services authority

2. The Council has a general duty to children who are 'in need'.¹ This includes children who are unlikely to have a reasonable standard of health or development without council services.
3. The Council has a duty to provide accommodation for children in need if the child has no one with parental responsibility or the responsible person cannot provide suitable accommodation.² It has a duty to provide accommodation for 16 and 17 year olds who are in need if their welfare would be seriously prejudiced if it did not.³
4. The Council can investigate the circumstances of a child if it considers they may be in need or at risk of harm.⁴
5. If reasonably practical and consistent with the child's welfare, the Council must find out and consider what the child wants and feels about being provided with accommodation⁵.
6. The Council must give advice and assistance to a child of 16 or 17⁶ or an adult of 18 to 21⁷ who was in its care or accommodated for a time between being 14 and 13 weeks and after their 16th birthday.
7. Two Court rulings in 2008⁸ and 2009⁹ confirmed that the Council's Section 20 duties under the Children Act 1989 take precedence over the duties in the Housing Act 1996 with regard to children in need who require accommodation..

1 Children Act 1989, Section 17

2 Ibid, section 20

3 Ibid, section 20(3)

4 Ibid, sections 17 & 47

5 Section 20(6) of the Children Act 1989

6 Known as a 'relevant child'

7 Known as a 'former relevant child'

8 R(M) v Hammersmith and Fulham [2008] UKHL 14

9 R(G) v Southwark [2009] UKHL 26

Dover District Council's duties as a housing authority

8. The Council must follow the Homelessness Code of Guidance for Local Authorities or make a reasoned decision why it should not in a particular case.
9. The Council must provide housing to someone who applies, has a local connection and is: homeless; eligible; in priority need; and not intentionally homeless.¹⁰ A child of 16 or 17 must be treated as in priority need if the County Council does not have a duty to them. Someone between 18 and 20 years who is a former relevant child must also be treated as in priority need.¹¹
10. If the Council has reason to believe that someone applying for housing may be homeless or threatened with homelessness, it must make enquiries about whether they are eligible and, if so, decide whether it owes them a duty under the Housing Act 1996.¹² The Council must give a written decision and reasons.¹³
11. Under the Homelessness Code, the Council

"... should deal with inquiries as quickly as possible, whilst ensuring that they are thorough and, in any particular case, sufficient to enable the housing authority to satisfy itself which duty, if any, is owed or what other assistance can be offered... Wherever possible, it is recommended that housing authorities aim to complete their enquiries and notify the applicant of their decision within 33 working days of accepting a duty to make inquiries under s184 [Housing Act 1996 as amended]."
12. If a child approaches the Council's housing department and appears to be homeless, the Council must provide housing until the County Council decides whether it has a duty to the child under the Children Act 1989.¹⁴
13. If asked, the Council must review a decision that someone is not eligible for housing assistance and a duty under S184 of the Housing Act¹⁵. In certain circumstances applicants may then have a right of appeal to the county court.¹⁶
14. The Council must have an 'allocation scheme' for deciding priority for housing. That scheme must give 'reasonable preference' to certain types of people, including those who are homeless.¹⁷ Dover District Council operates a housing register and a points system for allocating priority to people who apply for housing.

10 Housing Act 1996, section 193

11 The Homelessness(Priority Need for Accommodation)(England) Order 2002 (SI 2002/2051)

12 Ibid, section 184 (1)

13 Ibid, section 184(3) and (6)

14 Ibid, section 188

15 Ibid, section 202(1 and 3)

16 Ibid, section 204

17 Ibid, section 167

15. The Homelessness Code recognises that 16 and 17 year olds who are homeless and estranged from their family will be particularly vulnerable and in need of support.¹⁸
16. The Code says that Bed and Breakfast (B & B) is unlikely to be suitable for 16 and 17 year olds who need support.¹⁹ B & B should only be used as a last resort, and for the shortest time possible.
17. A child cannot hold a legal estate in land²⁰ but can be granted a secure licence²¹ until they are 18 when it will become a tenancy. A secure tenancy can be granted, to be held on trust by some other person until the young person reaches the age of 18.

Joint policy on dealing with young homeless people

18. The Homelessness Code says housing and social services should have a joint protocol for dealing with young homeless people.²²
19. At the time of J's complaint Kent and Dover had a joint protocol. It told housing officers and social services officers what to do if approached by a young homeless person aged between 16 and 21.
20. The Protocol said:
 - Dover's Housing Needs Officer will '*refer all 16-18 year olds ...to the Kent County Duty Service*' and '*make a simultaneous referral for all 16-19 year olds, to their local Connexions Kent and Medway Access Point*'.
 - Kent County Duty Service will then '*contact the young person's local Children and Families' Team so that an initial assessment and risk assessment can be arranged...*'.
 - the Connexions Kent and Medway Personal Advisor will: '*monitor the progress of the homeless investigation;...develop an action plan with the young person*'.

It went on to say what an action plan would cover and included guidance on training, job seeking, addressing health issues including drug/alcohol issues, mental health and general wellbeing and gaining of life skills.

18 Homelessness Code of Guidance, paragraph 12.12
19 Homelessness Code of Guidance, paragraph 12.14
20 Law of Property Act 1925
21 Housing Act 1985
22 Homelessness Code of Guidance, paragraph 10.39

21. The Protocol included information about social services duty under section 20(3) of the Children Act 1989 to '*accommodate any child in need aged 16 and 17 whose welfare is likely to be seriously prejudiced without the provision of accommodation*'.

Government Guidance

22. In April 2010 the Government issued guidance to local authorities. This followed Court rulings on how councils should deal with 16 and 17 year olds who are homeless and/or requiring accommodation.^{23 24} The guidance says the rulings '*restated and clarified the established legal position that the duty under section 20 of the 1989 Act (Children Act 1989) takes precedence over the duties in the 1996 Act in providing for children in need who require accommodation, and that the specific duty owed under section 20 of the 1989 Act takes precedence over the general duty owed to children and their families under section 17 of the 1989 Act*'.
23. The guidance goes on to say:
- if an initial approach is made to housing services, it should be treated as an application for housing.
 - if the young person is homeless or likely to become homeless within 28 days, housing services should immediately refer to children's services for an assessment.
 - if a 16 or 17 year old seeks help from children's services when they are homeless, or is referred as homeless by another agency, children's services must assess whether the young person is a child in need and decide if there is a duty to provide housing under section 20 of the Children Act.
 - children's services can accommodate children under section 17(6) of the Children Act but this will almost always be for children needing to be accommodated with their families.
 - a council cannot use its powers to provide accommodation under section 17 as a substitute for its duty to provide accommodation under section 20(1) of the Children Act to homeless 16 and 17 year olds who are assessed as being children in need.
 - Bed and Breakfast is not suitable for 16 and 17 year olds.

The Guidance deals with housing 16 and 17 year olds who are not owed a duty under section 20 or who refuse section 20 accommodation.

23 R(G) v Southwark LBC (2009) UKHL 26

24. The joint protocol in Kent was updated to take DCLG guidance into account.

Investigation

25. J's mother has mental health problems. During J's childhood at times Kent took him into care under section 20 of the Children Act 1989. Between February 2005 and March 2007 when J was 12 to 14, Kent placed him with a series of foster carers. His last foster placement was some distance from home. J understands that his mother was asked to make a financial contribution and so she took him back to live with her and her partner. At that point Kent stopped accommodating J under Section 20. This happened before he was 16 so J would not be entitled to advice and assistance after he was 16 unless Kent took him into care or accommodated him again.
26. J had become involved in drug use and crime. A Youth Offending Service worker was involved with him until January 2009.
27. A social worker and a social work assistant provided support to J until early 2008. J made progress and had community based support including from a community police support officer and a substance misuse project. The Council says this brought the social work support to a natural end.
28. J says from leaving care in March 2007 until December 2008 his life was very unsettled. He says he spent long periods away from his family, living in highly unsuitable circumstances with known sex offenders where there was considerable use of drugs.
29. In November 2008 J's daughter was born.
30. After an argument in December 2008, when J was 16, his mother told him to leave. J spent Christmas 2008 staying on friends' sofas. He went to one of Dover Council's housing offices on 6 January 2009 and said he was homeless. A housing officer interviewed him. The officer asked J if he would accept B & B in central Dover. J said no because his earlier drug use and involvement in crime had happened in central Dover. Returning to the area would bring him back into contact with the people he had known then and he would be likely to start using drugs and offending again.
31. A housing manager at Dover Council told my investigator that Dover Council uses B & B accommodation for homeless 16 and 17 year olds because it has limited

resources. Nothing else would have been offered to J at the time because there were not the resources to offer anything else.

32. Dover's housing officer did not do anything with J's homeless application. The Council did not deal with J's approach as a homeless application. J was not offered any other temporary housing. He was not given a written decision and reasons (as required by Section 184 of the Housing Act). This meant he could not ask for a review or appeal against the decision.
33. Dover's housing officer did not refer J to Kent's children's services as the Joint Protocol said s/he should. The housing manager told my investigator that this was because J left the office saying that he would '*sort himself out*'. The housing manager was not at the interview.
34. Between January and June 2009 J slept mostly in a tent in various locations in rural Kent. The tent was often vandalised. During February there was heavy snow. During wet weather J struggled to keep himself, his clothing and bedding dry. He spent some time staying with friends and sleeping on their sofas.
35. When he became homeless J stored some of his possessions at a voluntary sector youth centre he used during the day. The centre provided meals and its staff also gave J support and advice.
36. J says he sold or gave away most of his possessions so he could pay friends who let him stay.
37. The youth centre manager says he approached Kent children's services and reported J's circumstances by telephone at least three times in the early part of 2009. Social services did not take any action. The youth centre manager says:
 - He telephoned and spoke to J's previous social worker at least once.
 - Kent children's services told him that they were not responsible for J because he was 16.
 - Kent children's services told him to contact Dover Council's housing department.
38. The youth centre manager did not make written records of his contacts. Kent's records do not note any contacts about J between 23 January 2008 and 28 July 2009.
39. The youth centre manager heard that Dover Council had employed a specialist young person's housing advisor. He encouraged J to go to Dover Council again on 6 June 2009. On 12 June the specialist housing officer met J at the youth centre. The specialist housing officer told my investigator that she asked J if he would accept B & B in Dover, Ashford or Folkestone. J explained that he could not accept a B & B in Dover for the reason he gave previously. He also explained

that he had previously been involved in drugs and crime in Ashford and Folkestone so could not accept B & B there either. In addition he told her that Ashford and Folkestone were too far from his baby daughter and he would not be able to visit her.

40. The specialist housing officer says:

- At the time the Council would offer homeless applicants B & B accommodation preferably in Dover and then Folkestone or Ashford. If this was refused the Council would not make any other offers and the applicant would be deemed to be intentionally homeless.
- She did not complete a homeless application for J because he would not accept a B & B in Dover.
- She believed J decided not to make a homeless application and preferred to continue living in his tent and occasionally staying with friends.
- She arranged for J to be 'homeless at home' with a friend of his; and
- She completed a housing register application with him.

41. J says he did not understand that refusing the offer of B & B meant Dover Council would not deal with his homeless application. He believed that the specialist housing officer *would* deal with his application and would refer him to Kent children's services.

42. The specialist housing officer did not give J a written decision and reasons (as required by Section 184 of the Housing Act 1996). This again meant that J could not ask for a review or appeal.

43. The specialist housing officer says she did some further investigation. She found that J was a child in need (under Section 17 of the Children Act) and a 'relevant child'. He was not a relevant child but the housing officer incorrectly thought that he was and that he was therefore eligible for services from children's services. She agreed with J she would contact Kent children's services.

44. The housing manager told my investigator that the joint protocol with Kent was not widely followed. It has recently been reviewed and re-launched in the light of the Court rulings.

45. In July 2009 a neighbourhood police officer, the Youth Offending Service, the YMCA and a local drug and alcohol service began to contact the specialist housing officer with concerns about J's homelessness.

46. On 10 July Dover gave 164 points to J's application on the housing register – a high level.

47. The youth centre manager referred J to Kent as a Child in Need on 15 July 2009. Dover Council says its specialist housing officer agreed this because the youth centre manager knew J and his situation very well and better than she did.
48. The written referral was very detailed with four typed pages about J's current living arrangements and his background. It made it very clear that J was homeless, and living in a tent and staying on friends' sofas since late December 2008. Kent Social Services recorded it received the referral on 16 July.
49. On 5 August the youth centre manager and J contacted Shelter for advice. Dover Council had told J orally he would need a guarantor to get a lease on a property. On 7 August a Shelter officer wrote to Dover District Council expressing concerns that under 18s should have to provide a guarantor in order to get a tenancy.
50. A social worker met J at the youth centre on 7 August 2009. She says it was immediately obvious that his situation 'was dire'. She thought he would be placed in B & B very quickly and this would bring him some immediate relief. The social worker said that she quickly sorted out financial help for J under Section 17 of the Children Act.
51. My investigator asked the social worker if she had discussed with J accommodating him under Section 20 of the Children Act 1989. The social worker said she could not remember. She did remember that J wanted to be housed in his own place but would agree to B & B. The social worker confirmed she knew Kent had previously accommodated J but believed that there had been no contact with him since 2008.
52. Kent children's services' files do not record any discussion with J about accommodating him under section 20 at this time.
53. Dover's specialist housing officer says she tried to find B & B in Deal or Sandwich for J but they were all full. She was trying to find out if there were any vacancies and had not yet asked her managers to agree to pay for B & B. There were no vacancies so she didn't take it further.
54. On 13 August the social worker completed a Core Assessment of J. This identified his need for housing so he could access education and an income and improve his physical and mental wellbeing. It stated

"He has 164 points and has been offered a one bedroom flat but has no access to a guarantor, thus preventing him from securing the tenancy. The council accept that he cannot live in Dover due to the people there who would escalate the risk of him resuming drug abuse. Bed and Breakfast accommodation in Deal or Sandwich (where he would be safe) is too expensive for Dover District Council to fund."

and

“...he is struggling against a system that is not flexible enough to meet his housing needs.”

55. The social worker told my investigator that she did not know about the Joint Protocol.
56. On 14 August J's place on the housing register meant Dover offered him a one bedroom property in Deal. Although he was still homeless J wrote to the Council turning it down on 19 August. He said that on the advice of the police and other agencies he could not accept the offer because the area was known to have problems with drug users. He also referred to the new problem of needing a guarantor as he could not have a tenancy until he was 18. He had not been able to find a guarantor.
57. On 18 August a Kent Social Services manager told Dover's housing manager that Kent would act as guarantor for J to the value of £1000 until his 18th birthday. This was on the understanding that he would work with 'floating support' services provided by Kent in handling his tenancy. The youth centre manager had already agreed to guarantee £500.
58. By August J's mental health was deteriorating and his General Practitioner referred him to the Local Community and Adolescent Mental Health Service.
59. Notes on children's services' case records on J indicate that Dover's housing officers were unwilling to accept the guarantees offered by Kent and the youth centre.
60. On 4 September Dover Council offered J another one bedroom property in Deal in a different area. J viewed the property and keenly accepted it.
61. By 9 September Dover District Council had not clarified what it would accept as a guarantee. Shelter threatened to apply for a Judicial Review.
62. On 10 September Dover Council told Shelter it would accept the £1000 guarantee from Kent Social Services. On 15 September the social worker told J and the youth centre manager that an officer at Dover had told her that £1000 was not enough. A manager at Dover Council then said the guarantee needed to be unlimited and from an individual not an agency/organisation.
63. On 21 September Dover Council told J it would withdraw the offer of the one bedroom flat if he did not find an acceptable guarantor.
64. Shelter threatened legal action against Dover over J's homeless and housing applications and against Kent over its handling of his situation.
65. On 29 September Dover's specialist housing officer met J at the youth centre and completed a homeless application with him. J confirmed on the form that he had previously applied as homeless. Dover placed J in B & B in Deal on the same

day. The specialist housing officer gave him a letter saying Dover was providing B&B while she made enquiries under Section 184 of the Housing Act 1996.

66. On 1 October a senior officer at Dover District Council overturned the previous decisions about the guarantor. The housing manager wrote to Shelter to say Dover would hold the 1 bed room flat for J and would accept Kent's guarantee.
67. On 12 October Dover Council issued a Section 184 Decision Notice of J's homeless application. It stated that investigations had led to it deciding that J was eligible for advice and assistance, homeless, in priority need and was not intentionally homeless.
68. When my investigator interviewed the specialist housing officer she asked her why Dover had accepted a homeless application from J on 29 September and not when he applied in January or June. The specialist housing officer said she had asked J if he would accept B & B in Deal if she could find it. She did this because she was becoming increasingly concerned about J's emotional and mental wellbeing and that he was not receiving support from Kent social services. The specialist housing officer went on to say that Dover does not use B & B in Deal because generally the owners don't like to accept 16 or 17 year olds and the accommodation is more expensive. The housing manager has to agree to such arrangements.
69. The housing manager confirmed these points when interviewed. She said that B & B in Dover usually costs around £20 a night but the rate in Deal is between £25 and £30 a night.
70. On 9 October Kent children's services arranged a multi-agency Child in Need meeting. The purpose was to co-ordinate support to J in his new flat. Kent, KCA (a service providing support in relation to mental health problems and substance misuse), the Connexions Service and a youth worker were to provide support or services to J. The services included therapeutic services, help to buy furniture and to apply for a Community Care Grant, £100 from social services to buy clothes, and assistance to get into training and education when he had settled into his flat.
71. J signed his tenancy agreement and moved into his flat on 12 October. Ironically, on the same day Dover accepted him as homeless. Dover attached additional conditions to J's tenancy because he was under 18. These covered his behaviour, keeping the property in good condition and ensuring positive relationships with those living in the neighbouring properties.
72. Various organisations supported J in his new flat including help with budgeting and housekeeping from a Floating Support Worker, ongoing support from the Community and Adolescent Mental Health Service, the youth centre and an alcohol and substance misuse project. This support was never part of a formal

'package' designed and monitored by children's services as it would have been if Kent had accommodated J. J's social worker formally ended her involvement in November 2009.

73. Kent co-ordinated a Child in Need meeting in March 2010 when J was having some difficulties. There was a follow up meeting in May 2010 before children's services again ended its involvement with J.
74. Dover's specialist housing officer continued her involvement for longer. In May 2010 the Connexions Service provided J with details of courses and training.

Findings – Kent County Council

Failure to assist J between January and June 2009

75. There is a conflict of evidence between the youth centre manager and Kent County Council. I prefer the evidence of the youth centre manager that he phoned Kent children's services three times between January and June 2009. I accept that he informed children's services about a 16 year old boy who was homeless and sleeping in a tent. Kent children's services should have recorded the first contact, then tried to find J and assess his needs. Its failures to do so were maladministration.

Action after July 2009

76. J was 16, homeless and had no support from his parents. Kent clearly accepted that he was a child in need because it provided him with money under Section 17 of the Children Act. It also recognised his urgent need for housing. Kent could have accommodated J in a place of his own under section 20 until his 18th birthday. If Kent had done this J would have been a 'looked after child'. He would have been entitled to services due to all looked after children – an assessment, a 'pathway' plan for his transition from childhood to adulthood, and a personal advisor. He would also have been entitled to advice and assistance until he was 21 (or 24 if still in education). If he had been accommodated under Section 20 until he was 18 he would have been a "former relevant child" and would have had a Young Person's Advisor, review and revisions to his pathway plan (this would have already been in place as a 16/17 year old looked after child) as well as assistance with employment or training. There is no evidence that Kent Council properly considered accommodating J under Section 20 of the Children Act 1989. This was maladministration.
77. Kent County Council failed to fulfil its duties to J as a child in need. It assessed that he needed urgent housing but did nothing to provide it using its powers under Section 20. Kent relied on Dover Council to find housing for J. It cannot claim not to have known it had the primary duty. Case law in 2008 had clarified that, for 16

and 17 year olds, duties under the Children Act supersede duties under the Housing Act.²⁵

After J moved into his flat

78. Kent's failure to accommodate J affected the support he later received. It did provide some support to him after he moved into his flat. However, if he had been accommodated under Section 20 J would have had a personal advisor and a pathway plan until the age of at least 21. The support he did receive with housing is not a substitute for such support. He received floating support and much of this was about budgeting. J contacted Connexions himself.

Findings – Dover District Council

Homeless applications

79. When J went to Dover's housing office in January 2009 the housing officer should have accepted he was homeless and provided suitable temporary accommodation. The failure to do so was contrary to law and so maladministration. The housing officer did not follow the Joint Protocol and did not contact Kent children's services. This was also maladministration.
80. J went to Dover Council again in June 2009 and said he was homeless. A specialist housing officer did not accept him as homeless. This was contrary to law and so maladministration. She took a month before contacting social services. This was contrary to the Joint Protocol and was maladministration.
81. Dover Council did not give J written decisions about his homelessness as required by the Housing Act 1996. J could not, therefore ask for a review or appeal. This was contrary to law and so maladministration.
82. Dover Council twice offered J bed and breakfast. This was contrary to statutory guidance, contrary to what it says is its own policy, and was maladministration.
83. Dover Council says

'The Council accepts that procedures were not followed in that a homeless application should have been processed for [J] which would have allowed him his right of appeal. However, the outcome would have been no different as the option open to [J] in 2008/9 was B & B accommodation. [J] was treated no differently to anyone else presenting themselves as homeless'.

25 London Borough of Hammersmith and Fulham, *op.cit*

This does not acknowledge its failure to refer J to Kent or that homeless 16 and 17 year olds have additional rights to '*anyone else presenting themselves as homeless*'.

84. Dover did not help J to go on the housing register until June 2009. It offered him a flat two months later. The failure to help J to register in January 2009 compounded the maladministration of refusing to treat him as homeless.
85. After offering J a flat in an area he could accept, for four weeks Dover Council was obdurate in refusing to accept Kent as a guarantor. There is no evidence that it considered other options or the impact of its position on J – a young man who was still a child, living alone in a tent and suffering physical and mental ill health as a result. It only changed its position when Shelter intervened and threatened legal action.

Injustice

86. Kent's maladministration meant that it did not find and assess J early in 2009 when the youth centre manager first contacted children's services. If it had it would have decided J was a child in need. It should then have accommodated him under section 20 of the Children Act. That would have made J entitled to advice and assistance until he was 21 (in addition to the housing and any services he was assessed as needing).
87. Dover's maladministration meant that it did not provide J with suitable emergency housing from the end of December 2008 and did not refer him to Kent children's services.
88. Taken together the maladministration by the two Council's caused J the injustice of:
 - being homeless and sleeping in a tent or on friends' sofas for nine months
 - having to sell or give away many of his belongings
 - being unable to have any regular or meaningful contact with his baby daughter
 - relying on friends and the youth centre for food and washing facilities etc
 - serious effects on his physical and mental wellbeing – problems with his back from sleeping on sofas and the floor for several months, problems with his feet from being wet as a result of living outside in wet weather, repeated chest infections, loss of a lot of weight, damage to his psychological wellbeing.

Remedy

89. To remedy this injustice the Councils should apologise in writing to J and pay him:

- £3800 as the estimated value of the housing he should have had for 38 weeks;
- £100 for each week that he was homeless to reflect the distress and inconvenience of having no home and selling or giving away his belongings;
- £2,500 to mark their regret for their failures.

The Councils should each bear 50% of these payments.

The Councils should undertake audits to satisfy themselves that their staff know about and apply the 'Joint Protocol' about homeless young people aged 16-21. The results of those audits should be reported to the Executives or the appropriate Scrutiny Committee.

Kent County Council's maladministration in not assessing J as a Child in Need meant it did not provide him with other services and support that he needed. The voluntary sector youth centre stepped in and gave J personal support above and beyond its usual level. Kent County Council should recognise this by thanking the centre and its manager in writing.

Kent County Council's maladministration in not accommodating J under Section 20 of the Children Act means that he did not become entitled to advice and assistance up to the age of 21. To remedy this injustice the Council should agree to treat J as if he was entitled to that support. It should nominate one of the Independent Persons who protect the interests of children in care to monitor what advice and assistance J wants and needs and that it is provided to him.

Kent County Council should review its arrangements for receiving and recording telephone calls to its children's services to ensure that important messages are not overlooked. The outcome of that review should be reported to the appropriate Scrutiny Committee.

Dover District Council has already implemented procedural improvements to address some of the areas of concern highlighted by this investigation. It has also agreed to write a letter of apology and pay the proposed compensation.

Kent County Council has yet to respond to the draft findings.

I am satisfied that both Councils have had sufficient opportunity to respond to the draft findings and now await confirmation that they will provide the remedy. I have asked for this within three months of the date of this report.

Anne Seex
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
London SW1P 4QP

31 July 2012

Embargoed until 00.01hrs Weds 8 Aug 2012