

Civic Offices, New Road, Grays  
Essex RM17 6SL  
Adults, Health and Housing

Mr Nnamdi Okpala  
15 Evehsam Way  
Ilford  
IG5 0EQ

22 August 2025  
Reference number  
1083077

Dear Mr Okpala,

**No Homeless Application Taken – Housing Act 1996, Part VII  
Notification of Decision**

Following the withdrawal of the Not Homeless Decision letter issued on 20 May 2025 we have re-considered your request to make a homelessness application to this Local Authority.

Based on the information available to us I am of the view that you lack the mental capacity to make a homelessness application and therefore we are unable to proceed any further with your request under the Housing Act 1996, Part VII.

I have set out below the enquiries I have made and the reasons for my decision. This is so you, or the person that is representing or supporting you, can understand the reasons and how I have reached my decision that no application can be proceeded with due to your lack of capacity.

This helps you and anyone supporting you to decide whether to seek a judicial review, or whether to seek independent legal advice. We think that it is always best to seek independent advice because the test we must apply is complex and an independent advisor can explain my decision, check it, and advise on what options are available to you.

**Background**

You are currently resident at Heathcare Services, 15 Evesham Way, Ilford, Essex, IG5 0EQ. You have been provided this accommodation with support by Adult Social Care, Thurrock Council on 25<sup>th</sup> February 2025.

On 28 July 2025, the decision was made by Heathcare Services to serve you with a 28 day Notice to Quit due to your behaviour and the ongoing concerns that were significantly impacting the team's ability to support you and maintain a safe, respectful living environment for the other residents.

You have mental health diagnoses of Autism Spectrum Disorder and Unspecified Non-Organic Psychosis for which you are prescribed Sodium Valproate 300mg and Aripiprazole 10mg, however you are not currently compliant with medication.

You stated that you want to live independently.

Thurrock Council's Privacy Notice can be found on our website [Data Protection](#), which outlines your rights and how we collect, use, store, delete and protect your personal data.

## The Law

The courts who interpret the Homelessness Legislation have determined that an adult person who lacks the mental capacity to understand and respond to an offer of accommodation, and, if accepted, to understand the responsibilities involved, is not entitled to receive assistance under the homelessness legislation. This is the case of *R v Tower Hamlets LBC ex p Ferdous Begum* [1993] AC 509; (1993).

The Courts decided that the decision as to whether a person has sufficient mental capacity to make an application is to be decided by the Local Authority's Housing Service and should be based on clear evidence, because such a decision is only legally sustainable in the case of a person who has serious capacity issues.

In making my decision I have been guided by Section 2 of the Mental Capacity Act (MCA) which states:

*"A person lacks capacity in relation to a matter if at the material time he is unable to make a decision for himself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain"*

The impairment or disturbance can be permanent or temporary.

I am mindful that capacity is not necessarily a permanent status and that some people may have fluctuating capacity because their mental health changes from day to day. I am also mindful that the level of capacity needed by a person also depends on the decision to be made.

A person will need a high level of mental capacity to make a decision on their housing future given the complexity of decisions that may be required from a person who may be owed duties under the homelessness legislation or may need to respond to an offer of temporary or settled housing.

I have considered Section 3 of the MCA to guide me in assessing whether you lack capacity to make a decision as defined by the courts in the *Begum* case. Section 3 states that a person is unable to make a decision if he or she is unable to do one or more of the following things:

1. Understand the information relevant to the decision.
2. Retain the information for long enough to be able to make a decision.
3. Use or weigh up the information as part of the process of making the decision.
4. Communicate the decision by any possible method, such as talking, using sign language, squeezing someone's hand.

Guidance to the MCA also explains the circumstances where a decision maker should not consider that someone lacks capacity and I have been mindful to consider this. A person must not be assumed to lack capacity because of: their age; their appearance; any mental health diagnosis they may have; any other disability or medical condition they may have.

## Enquiries and Information Considered

I have made the following inquiries and considered the information and facts I obtained to make my decision.

- Interview by Microsoft Teams on 5 August 2025
- Assessment by the Mental Health & Wellness Team – North, Redbridge Integrated Care dated 25 July 2025
- Email from Heathcare Services to Adult Social Care, Thurrock Council dated 28 July 2025
- Email from Grays Hall, Mental Health Services, Thurrock dated 18 August 2025
- The Mental Capacity Act 2005
- The 2018 Homelessness Code of Guidance and in particular paragraph 18.8 of that Code
- Relevant caselaw for *R v Tower Hamlets LBC ex p Ferdous Begum* [1993] AC 509; (1993) and subsequent case law of *WB v W District Council* [2018] EWCA Civ 928 considered by the Courts for homelessness applications and mental capacity.

## Decision

During your interview with me on 5 August 2025 I have considered your mental health and current support and you did not demonstrate that you understood what is required to live independently.

When discussing budgeting you were unable to keep on track with the questions being asked and you required continual prompting by your social worker, Oluwafemi Ojo to assist you with answering the questions on the topic. This left the impression that you would need constant support in this area if you were living independently to be able to sustain any licence or tenancy agreement; this was indicative that you would require support more than that which a floating support service could offer.

You were unable to answer the question about the consequences of making loud noise, this is a key part of holding any licence or tenancy agreement as it can lead to the loss of accommodation.

When asked what support you might require when living independently you stated that you did not need any. This is not reflective of your current situation where you are living in a supported housing setting with staff onsite, provided by Adult Social Care in Thurrock due to your mental health. We have received no assessment from Adult Social Care, Mental Health Services, or Heathcare Services to state that this type of living environment is no longer required.

You do not have insight into your mental health and you are currently non-compliant with any prescribed medication, thus being prone to a relapse in your mental state. This raises concerns about your understanding of what is required to live independently and accept all of the responsibilities required to fulfil any licence or tenancy agreement. This is evidenced by the fact that Heathcare Services are a supported living scheme with staff

on site and they have had to serve you with notice to end your licence agreement due to your behaviour.

Their decision to end your stay with them is based on the following:

- Refusal to sign key documents: including house rules and tenancy agreement
- Non-compliance with medication and personal care
- Refusal to attend any meetings
- Frequently playing of loud music during unsociable hours, disturbing the household
- Neighbours lodging complaints regarding loud music after hours
- Your room being kept in an unsafe and unhygienic condition and refusing staff assistance
- Leaving the fridge door open and the oven on after use
- Wearing inappropriate clothing in the presence of female staff and service users
- Regularly disrupting other service users
- Demonstrable rudeness and lack of respect towards staff
- Live streaming from communal areas, interfering with staff duties
- Interfering with professionals supporting other service users
- Repeatedly calling all houses and the management team, causing disruption

This behaviour does not demonstrate that you understand the conditions of holding a licence or tenancy agreement as it is ending with you losing your accommodation. The fact that you have mental health diagnoses of Autism Spectrum Disorder and Unspecified Non-Organic Psychosis and that you are non-compliant with medication that is prescribed is indicative of the fact that you have an impairment of the mind that is impacting on your decision making in this area.

My concern is that if you are in breach of your current licence agreement/house rules which bare less of a responsibility than that of a tenancy then it is evident that it would be difficult for you to adhere to the terms of any tenancy agreement e.g. paying your rent on time, keeping the accommodation in a habitable and clean condition, not causing a nuisance to neighbours and committing anti-social behaviour and reporting repairs appropriately to the relevant services.

The interview with me on 5 August 2025 was originally arranged as a face to face interview at our office in Grays, Essex. You refused to attend the office and wanted it as a Microsoft Teams meeting. Living independently and entering into a contractual agreement with a landlord may require you to attend the landlord or agents' office for meetings or to sign documents or collect keys, you have not demonstrated the ability to readily engage with services or attend appointments as evidenced by your behavior at the current supported housing provision provided by Heathcare Services and this is of concern regarding your capacity to understand the responsibility of being a tenant or licensee.

Prior to the service of the notice, in July 2025 you had an assessment with Redbridge Access, Assessment & Brief Intervention Team. The primary concerns were related to housing dissatisfaction and medication non-compliance. It is noted that the assessor stated that you had the capacity to understand and weigh up the role of the mental health team and showed insight into your situation. However, it does not state that you have the capacity to understand the consequences of accepting and rejecting offers of accommodation and the responsibilities that goes with being a tenant.

Mental Capacity is decision-specific and time-specific and has to be tested on each individual decision, therefore you may have the capacity to understand the role of the mental health team but this is not the same as understanding your responsibility as a tenant and making decisions around this.

Whilst there was no indication for a hospital admission or immediate mental health crisis intervention, part of the plan, as advised by the assessor, was for the support staff at Healthcare Services to continue encouraging medication compliance and to monitor for signs of deterioration and escalating risk.

They also stated that a Deprivation of Liberty Safeguards (DOLS) application [to the Court of Protection] should be considered if you continued to refuse placements, which indicates that of a supportive nature however you are insistent that you want to live independently. The fact that DOLS is mentioned as part of the plan is not indicative of a person who does not have an impairment of mind that is not affecting their mental capacity to make decisions around their housing.

I have applied the following practical test to consider if you have sufficient mental capacity to understand and deal with the concept of being offered accommodation (The test set by the courts in the Begum case). I have concluded that due to the extent and impact of your vulnerability you do not. Specifically I am satisfied that:

1. I have a reasonable belief that you are a person that lacks capacity to make the decision in question in the context of housing.
2. I have started from the presumption of capacity (section 1(2) MCA) and considered the fact that every adult has the right to make their own decisions if they have the capacity to do so. I have not assumed that you do not have the capacity but have gathered evidence and facts that lead me to decide that you do not have capacity and it would not be in your best interests (section 1(5) MCA) to be assisted under the homelessness legislation.

As a result, the Council is not under any duty to proceed with your homelessness application. We are therefore not obliged to make any further enquiries into your circumstances to decide the statutory test set by the homelessness legislation. Nor are we required to provide temporary accommodation.

There is no statutory right of review to this decision.

You are a person who is vulnerable and I have therefore included your social worker, Oluwafemi Ojo into this correspondence so that Adult Social Care can carry out a Care Act assessment under the Care Act 2014 to determine in line with the Plan of the Redbridge Access, Assessment & Brief Intervention Team the most appropriate placement for you. I have provided Oluwafemi with a copy of this decision letter.

Should you have any queries regarding this letter, or if there has been any change in your circumstances, please do not hesitate to contact me on telephone number 01375 652820.

Yours sincerely

Olubunmi Akueme

Housing Solutions Officer

**Cc Oluwafemi Ojo, Social Worker, Community Led Support team, Thurrock Council**