

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Mrs B's complaint about the Council's decision that she does not qualify for its housing register. This is because there is no evidence of fault in the way the Council reached its decision on Mrs B's application.

The complaint

1. The complainant, whom I shall call Mrs B, complained that the Council has decided that she and her mother, Mrs C, do not qualify for its housing register on residency grounds but they had made their application on medical grounds. Mrs B told us the family's current accommodation does not meet her mother's medical needs.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe:
 - it is unlikely we would find fault, or
 - we cannot achieve the outcome someone wants. (*Local Government Act 1974, section 24A(6), as amended*)
3. 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*)

How I considered this complaint

4. I have considered the information Mrs B provided and given her an opportunity to comment on my draft decision.

What I found

5. Every local housing authority must publish an allocations scheme that sets out how it prioritises applicants, and its procedures for allocating housing. The housing authority must carry out all allocations in strict accordance with the published scheme.

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6. The Council's housing allocation scheme says applicants who are eligible for social housing cannot qualify for its housing register unless they meet each one of four criteria. If applicants are eligible and meet each of the four criteria, the Council will then assess their applications to decide if they are in housing need.
 7. When Mrs B applied to join the housing register, the Council told her she did not qualify because she had not been living in the borough for six years. So the Council did not go on to consider whether the family were in housing need.
 8. Mrs B asked the Council to review its decision. In his review decision letter the Council's reviewing officer explained to Mrs B that, while it appeared Mrs C had a medical need to move from her current accommodation, the family did not qualify for the housing register because they did not meet the residency requirement. The Council's reviewing officer explained there are some circumstances in which an applicant can join the register if they do not meet the residency requirement. For example, they may be in the armed forces. These exceptions are set out in the Council's housing allocations scheme. The reviewing officer considered whether any of these exceptions would apply to Mrs B's application. He said the only exception that might apply was applicants who are unable to access suitable accommodation if they are not offered social housing. This must be decided by the Head of Housing and at least one other statutory agency.
 9. Having considered Mrs C's medical conditions and her lack of mobility, the Council's reviewing officer was not satisfied her need was so exceptional it could not be met in the private sector. He suggested Mrs B could seek assistance from the Council's housing options service and speak to adult social care about possible adaptations for Mrs C.
 10. If there is no fault with the Council's actions, the Ombudsman has no basis to seek a remedy. A complaint to us is not the same as an appeal against a council decision. Our role is to look at the way the Council has reached its decision. In this case the Council has applied its housing allocation policy and considered whether it should make an exception. There is no evidence of fault in the way in the way the Council reached its decision on Mrs B's application.

Final decision

11. The Ombudsman will not investigate this complaint. This is because there is no evidence of fault in the way the Council reached its decision on Mrs B's application.

Investigator's final decision on behalf of the Ombudsman