

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

Summary: The Ombudsman does not have reason to investigate this complaint about the way the Council has dealt with a woman's housing case. This is because the woman had statutory appeal rights concerning the Council's decision about her homelessness application, and there is no sign of fault by the Council in other respects.

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## **The complaint**

1. The complainant, who I shall call Mrs B, complained the Council had unreasonably ended its homelessness duty in her case on the basis she refused an offer of suitable accommodation, and was unreasonably evicting her from her temporary accommodation as a result. Mrs B also complained the Council was refusing to help her with alternative housing. In addition Mrs B was unhappy the Council had reduced her priority to make bids for permanent social housing through its housing register.

## **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 provide a free service, but must use public money carefully. We may decide not to start an investigation if, for example, 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)*
4. The law says we normally cannot investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court.  
*(Local Government Act 1974, section 26(6)(c), as amended)*

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## **How I considered this complaint**

5. I considered the information Mrs B provided with her complaint and her comments when we spoke on the telephone. I also took account of Mrs B's response to my provisional views about her complaint. In addition I considered information from the Council about how it had dealt with Mrs B's housing case.

## **What I found**

6. The Housing Act 1996 ("the Act") says councils have a legal duty to house homeless applicants who are eligible, have a priority need, and are not intentionally homeless under the legislation.
7. The Act also gives applicants a right of review about councils' key decisions on their application. This includes a decision about the suitability of any temporary or permanent accommodation a council offers to meet its main housing duty in the applicant's case.
8. In addition the Act includes a right of appeal to the county court where the applicant wishes to challenge a negative review decision and there is a point of law in question.
9. Mrs B applied to the Council as homeless in 2017, and it accepted it owed her and her young children the main housing duty. Later that year the Council provided Mrs B's family with temporary accommodation in a self-contained house in the Borough.
10. Mrs B's temporary accommodation was in an area due for regeneration and in 2018 the Council decided it wanted the property back so that works on the site could start. As a result it offered Mrs B alternative temporary accommodation in the Borough. This was a house the Council had leased from a private owner.
11. When the Council made the offer it told Mrs B it considered the accommodation was suitable for her family's needs, and it would end its housing duty in her case if she refused the property.
12. However Mrs B refused the offer on the basis the property was unsuitable. In particular she said it was in poor condition and subject to damp and mould problems.
13. Mrs B asked for a review about the suitability of the house. But the Council upheld its decision following the review. The Council then wrote to Mrs B to say it had ended its housing duty in her case as she had refused an offer of suitable accommodation.
14. By this time Mrs B had found a solicitor to help her, and the solicitor asked the Council to review its decision to end its housing duty in her case. However the Council decided on review that it had lawfully ended its housing duty.
15. The Council then started legal proceedings to evict Mrs B from her temporary accommodation and subsequently obtained a possession order against her.
16. After receiving the possession order Mrs B approached the Council's Housing service. But she said Housing told her they could not offer any other help and she should go to the Council's Children and families service instead. However Mrs B said when she approached Children and families they also said they could not help as they had not received a case referral from Housing.

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17. Mrs B said she continued to receive confusing advice from the Council with no-one taking responsibility for helping her. She then complained to the Ombudsman.
  18. In response to our initial enquiries the Council confirmed its Children and families service would carry out a needs assessment in Mrs B's case and would offer her family temporary accommodation while the assessment was being done. The Council also said Mrs B could contact its Housing Solutions team for advice on finding alternative accommodation in the private sector.
  19. Mrs B has since been back to the Council and it has offered to help her with a deposit and rent in advance if she can find an affordable property with a private landlord.

## **Analysis**

20. Mrs B still disagrees with the Council's view that the property it offered her last year was suitable for her family's needs, and with its decision to end its housing duty in her case when she refused the offer. But I do not see that we should investigate Mrs B's complaint about these matters.
21. In particular, we normally consider we should not investigate complaints about councils' homelessness decisions because the law provides homelessness applicants with separate review and court appeal rights which they can use to challenge the decision in their case. In addition the Ombudsman has no power to overturn councils' homelessness decisions, only the courts can do that.
22. Mrs B said she could not afford legal help to make an appeal to the county court. But even if we were to accept it was unreasonable for Mrs B to go to court, I do not see we could justify pursuing her complaint in this respect.
23. In particular our role is to consider if there is fault in the way councils make their decisions. We cannot question the decision itself unless there is fault in the decision making which affected the outcome.
24. I have considered the Council's review letters in Mrs B's case, but I did not see any immediate signs of fault in its decision making. I am not in a position to say if the Council made any errors in law in its decision letters. But that would be a matter for the courts to rule on.
25. In addition I consider the Council has now taken some appropriate steps to assist Mrs B under the limited powers and duties available to it in her circumstances. In particular the Council has assessed what duty it owes Mrs B's family under the Children Act 1989, and is offering her advice and assistance in finding alternative accommodation. As a result I am not convinced there are any matters of fault we should pursue regarding this part of Mrs B's complaint.
26. Furthermore, I do not see sign of fault by the Council in reducing Mrs B's bidding priority on the housing register. Having looked at the Council's Housing Allocations Scheme I note the Council only prioritises homelessness applicants in the higher Bands on the housing register where it has accepted the main homelessness duty in their case. Therefore I consider the Council was entitled to place Mrs B in the Reduced Priority Band once its homelessness duty in her case had ended.

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## **Final decision**

27. The Ombudsman will not investigate Mrs B's complaint about the way the Council has dealt with her housing applications. This is because Mrs B had separate appeal rights about the Council's homelessness review decisions in her case, and there is no sign of fault by the Council regarding any other issues in her complaint.

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