

Complaint reference:
16 017 922

Complaint against:
Exeter City Council

The Ombudsman's final decision

Summary: There was fault when the Council suspended Mrs X's housing application. However this has not caused Mrs X an injustice as it was only suspended for a short period and she was rehoused shortly after the application was reinstated. There is no fault in the way the Council considered Mrs X's request for additional priority on her housing application. There is also no fault in the way the Council dealt with Mrs X when she was fleeing violence from her husband.

The complaint

1. Mrs X complains that the Council failed to rehouse her or consider her as homeless when she was subject to domestic violence from her ex partner. Mrs X says that as a result of the Council failings she and her child were put at risk and her child was taken into care because of this.

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'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), 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. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

5. I have spoken to Mrs X about her complaint and considered the information she provided to the Ombudsman.
6. I have also considered the information the Council provided in response to my enquiries which includes records of contact with Mrs X. I have also considered information provided by the County Council regarding Mrs X's son, Y.

What I found

Homelessness

7. If a council has 'reason to believe' someone may be homeless or threatened with homelessness, it must take a homelessness application and make inquiries. The threshold for taking an application is low. The person does not have to complete a specific form or approach a particular council department. (*Housing Act 1996, section 184 and Homelessness Code of Guidance paragraphs 6.2 and 6.6*)
8. A council must provide interim accommodation while it considers a homelessness application if it has reason to believe the applicant may be homeless, eligible for assistance and in priority need. (*Housing Act 1996, section 188 and Homelessness Code of Guidance for Local Authorities, paragraph 6.5*)

Housing allocations

9. Every local housing authority must publish an allocations scheme that sets out how it prioritises applicants, and its procedures for allocating housing. All allocations must be made in strict accordance with the published scheme. (*Housing Act 1996, section 166A(1) & (14)*)
10. An allocations scheme must give reasonable preference to applicants in the following categories:
 - homeless people;
 - people in insanitary, overcrowded or unsatisfactory housing;
 - people who need to move on medical or welfare grounds;
 - people who need to move to avoid hardship to themselves or others;(*Housing Act 1996, section 166A(3)*)
11. The Council's is part of a scheme with neighbouring councils. The Council is responsible for how the scheme is operated in its area.
12. Applicants for housing are placed in priority bands A to E depending on their circumstances. Band A is for people who need to move in an emergency and band E is for people with no housing need whatsoever.
13. Applicants must inform the Council about changes in circumstances. The Council can withdraw an offer of accommodation if it finds a person is no longer entitled to it due to a change in their circumstances since making an application.

What happened

14. On 1 August 2016 Mrs X contacted the Council to say she was struggling with stairs in her property. Mrs X had previously lived in the property with his husband who had assisted her with the stairs due her mobility issues.
15. On 3 August 2016 the Council awarded Mrs X's housing application priority band B due to her health needs and backdated this to 1 August 2016. Band B is awarded to people with "high housing need".
16. On 5 September 2016 Mrs X contacted the Council again and said she had to move due to threats of violence from her husband. The Council arranged for Mrs X to attend its offices on the following day and she was accompanied by a Social Worker. Mrs X requested the Council give her band A on her housing application. She said she wanted to move from her existing accommodation urgently but do so in a planned way.

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17. The Council offered to move Mrs X to a temporary accommodation or a refuge but she refused this. Mrs X said she could not cope in shared accommodation and was concerned about the welfare of her pets which she could not bring with her. The Council sent Mrs X an application form for band A priority and also sent a form to her Social Worker.
 18. Following an incident at Mrs X's home on 9 September 2016 she was moved to alternative accommodation by Social Services. The County Council is responsible for Social Services in the area.
 19. On 12 September 2016 Mrs X refused to remain in the accommodation. The Mrs X was taken to hospital for a mental health assessment and her son was taken into care on an emergency basis.
 20. On 14 September 2016 the Council obtained an interim care order for her son who was placed with foster carers.
 21. On 16 September 2016 the Council placed a temporary hold on Mrs X's housing application. This was because it found that her son was no longer living with her and needed to reassess her application. The Council asked Mrs X to supply it with a copy of the interim care order for her son.
 22. Mrs X contacted the Council by telephone on 19 and 23 September 2016 to ask what was happening with her application. The Council explained it would consider any evidence provided and consider her for band A priority. Mrs X explained she was at risk of violence from her husband.
 23. Mrs X attended the Council's offices on 3 October 2016. She handed in a copy of the interim care order for her son. Mrs X said there had been no further incidents involving her husband but she still wanted to move. Mrs X said she could not get her son back unless she was moved to alternative accommodation away from the area. The Council said it would lift the suspension on her housing application so she could bid for properties but she would remain on band B priority.
 24. The Council refused Mrs X's application for band A priority on 14 October 2016. The Council said it had received evidence from the police and other agencies that the risk to Mrs X from her husband had subsided.
 25. Mrs X was successful in bidding on a property at the same time as the Council declined her application for band A priority. Mrs X moved in on 14 November 2016. This was a two bedroom property in a different area.

My findings

26. There is no fault in the way the Council has dealt with Mrs X's housing application. The Council awarded Mrs X with priority soon after she informed it that she could not manage stairs in her property.
27. When Mrs X told the Council she was fleeing domestic violence it offered to provide her with temporary accommodation immediately but Mrs X refused this as she felt she could not cope living in shared accommodation and without her pets. There is no evidence Mrs X was directly offered a homeless application. However temporary accommodation could not have been offered without an intention from the Council to take a homeless application from Mrs X so it seems likely that one was offered. However, Mrs X declined this. Therefore, there is no fault by the Council.
28. I understand Mrs X's reasons for refusing temporary accommodation offered by the Council. However the Council's options are often limited in emergency

situations and it was only able to offer Mrs X what was available that day. Therefore, there is no fault in the Council's offer of temporary accommodation on 5 September 2016.

29. Mrs X says that the Council's failure to provide her with suitable accommodation resulted in her child being taken into care and ultimately placed for adoption. I have considered evidence in the court judgement regarding the order to place her son for adoption. The actions of the Council are not the reason why Mrs X's son was taken into care or the reason why he has been placed for adoption.
30. The Council is at fault for suspending Mrs X's housing application. The only circumstances under which an application can be suspended under the Council's allocations policy is if a person is in prison for more than 13 weeks. There is nothing within the policy which allows the Council to suspend an application whilst it considers a change in circumstances. However it can withdraw any offers made if it finds a person's circumstances are different to the circumstances set out on their application.
31. Mrs X's housing application was suspended on 16 September 2016. It was reinstated on 3 October 2016 and she was offered a property around the 14 October 2016. As Mrs X's application was only suspended for a short period and she was rehoused shortly after it was reinstated so she has not been caused an injustice.
32. Mrs X says she did not move into the accommodation until November 2016. The property is owned and managed by a housing association. The Ombudsman can investigate complaints about the way the Council allocates housing, including housing association properties. However the Ombudsman cannot investigate the way the Council or a housing association manages tenancies. This is because it is a housing management issue and the Housing Ombudsman is responsible for investigating complaints about this.
33. There is no fault in the Council declining Mrs X's application for band A priority. I have considered information in the court judgement regarding her son which sets out events that occurred around this time. The Council was entitled to reach a decision that there was a low risk to Mrs X at that time. In any case Mrs X was rehoused shortly after this and so even if there was fault by the Council it would not have caused her an injustice.

Final decision

34. I have completed my investigation as I have found fault by the Council but this has not caused Mrs X and injustice.

Investigator's decision on behalf of the Ombudsman