

**Summary of complaints statistics from the Local Government and Social Care Ombudsman year ending 31/03/2024**

<b>Reference</b>	<b>Authority</b>	<b>Category</b>	<b>Decided</b>	<b>Decision</b>	<b>Decision Reason</b>	<b>Remedy</b>	<b>Improvement recommendations</b>
22014000	Exeter City Council	Housing	08/09/2023	Upheld	fault & injustice to the complainant	Improved body in jurisdiction remedy, Financial redress: Avoidable distress/time and trouble, Provide services to person affected	N/A
23001359	Exeter City Council	Housing	02/05/2023	Referred back for local resolution	Premature Decision - advice given	N/A	N/A
23003990	Exeter City Council	Corporate & Other Services	28/11/2023	Not Upheld	no fault	N/A	N/A
23006930	Exeter City Council	Planning & Development	11/09/2023	Closed after initial enquiries	Not warranted by alleged fault	N/A	N/A
23010891	Exeter City Council	Corporate & Other Services	16/11/2023	Closed after initial enquiries	Not warranted by alleged fault	N/A	N/A
23012514	Exeter City Council	Environmental Services & Public Protection & Regulation	22/11/2023	Referred back for local resolution	Premature Decision - advice given	N/A	N/A
23014448	Exeter City Council	Highways & Transport	18/01/2024	Upheld	Injustice remedied during organisations complaint processes	N/A	N/A

## Decision Notices

# Exeter City Council (22 014 000)

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Category : [Housing](#) > [Allocations](#)

Decision : **Upheld**

Decision date : **07 Sep 2023**

## The Ombudsman's final decision:

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**Summary: Ms X complains the Council's decision regarding her housing allocation priority was wrong. She says her overcrowded accommodation has affected her physically and mentally. We found fault by the Council. It has agreed our recommended remedy.**

### The complaint

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1. The complainant, whom I shall refer to as Ms X, complains the Council failed to properly assess her housing priority from August 2019. As a result she says has been living in overcrowded and unsuitable accommodation with her teenage son for 3 ½ years. She says this has significantly affected her health and wellbeing.

### The Ombudsman's role and powers

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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. If we are satisfied with an organisation’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

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4. I have discussed the complaint with Ms X and considered the complaint and the information she provided. I have made enquiries of the Council and considered the comments and documents the Council provided. Ms X and the Council had opportunity to comment on my draft decision. I considered

## What I found

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### Legislation and guidance

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5. 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))
6. 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).)

## The Council's housing allocations policy (January 2021)

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7. The Council's housing allocation policy is set out in the Devon Home Choice Policy Document. Devon Home Choice is a partnership of 10 local authorities and housing associations. Each local authority assesses the applications from residents living in its area or wishing to move to the area.
8. The policy places applicants into priority bands. Band A is the highest priority and band E the lowest. The three higher bands relevant to this complaint are as described as follows:
9. Band A (Emergency Housing need) – the applicant's need for housing is assessed as so exceptional that they take priority over all other applicants.
10. Band B (High Housing need) – where it is not possible and appropriate to find private rented accommodation for households assessed as homeless, in priority need and unintentionally homeless, local authorities in Devon will place applicants in Band B. One of the categories included in this banding is severe overcrowding, where applicants, who in their principle home:
  - currently lack 2 or more bedrooms given the size of their household, or
  - have been assessed by the Environmental Health Team of a Devon local authority as a category 1 hazard, due to overcrowding in accordance with the Housing Health and Safety Rating System introduced by the Housing Act 2004.
11. Band C (Medium Housing Need) - the categories included in this banding are:
  - Medium health/ wellbeing need.
  - Applicants who currently lack 1 bedroom given the size of their household.
12. The policy states that the Council will apply the start date of a higher band following a change in circumstances based on the date the Council receives the request for assessment of the change in circumstances.

## What happened

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13. The information that follows is not a detailed chronology of all that happened but is a summary of the key points relevant to this complaint.

14. Ms X visited the Council for housing advice in August 2019. The Council gave her a written note which showed it advised her to complete the Devon Home Choice (DHC) application form. It also said that it may assess her as priority band C due to lacking a bedroom. However, it stated that “this was not a quick solution”, referring to bidding and receiving an offer. It suggested she should look for affordable private accommodation.
15. Ms X completed the DHC application form. She said that she lived in a privately rented studio at with her son who was aged 14. She also said that:
  - she had no bedrooms, and it was an open area with no privacy.
  - she slept in the same bed as her son. She said that she wanted to have a bedroom for him and for herself.
  - her health and wellbeing and that of her son was not made worse by her current home and she did not have any mobility issues.
16. The Council confirmed it registered Ms X as an applicant from August 2019. It said her priority band was C, and she could bid for three properties on the DHC website each week.
17. Ms X made some bids and in 2020, the Council offered her two properties. However, Ms X refused both offers.
18. In early 2021 the Council offered a further property. However, Ms X refused this because she said it needed a lot of work and money spending on it.
19. The Council’s notes on its system show that Ms X contacted the Council in May 2021. She said that she was dissatisfied with the Council’s decision on her priority banding. In her view, she should be band B. She asked the Council’s environmental health officer to visit her to see her accommodation.
20. The Council’s notes show an officer sent an email to the environmental health team. However, I have not seen evidence that the Council took any action following this.
21. In August 2021 the Devon Home Choice policy was revised regarding band B priority (severe overcrowding). Paragraph 3.5.3.1, where an Environmental Health Team had assessed a category 1 hazard, “due to overcrowding” was revised to state “due to lacking 2 bedrooms”. However, the corresponding appendix at paragraph 5.3.giving a definition of overcrowding, was not revised to include “due to lacking two bedrooms”.
22. In February 2022 Ms X contacted the Council and requested a review of its decision on her priority banding. She said that she had no privacy in her home because it was open plan and there was not enough space. She said she

slept in the same bed as her son for many years and this had affected her physical and mental health. She provided a letter from her GP confirming her health conditions.

23. The Council replied in March 2022. It said that Ms X's banding was C from 2019. It said that Ms X had only bid for 52 properties in the period from August 2019. She had also turned down two offers in 2020. The Council explained that she could bid for up to 3 properties per week and it suggested she may wish to increase the number of bids she made.
24. Ms X replied she had requested a review, not for the Council to tell her which band she was in. She said her health had deteriorated.
25. Later in March 2022 a housing advice agency wrote on Ms X's behalf to support her appeal against band C priority. It said that the Council decided Ms X was lacking one bedroom. However, it considered that Ms X was legally overcrowded according to sections 324-326 of the Housing Act 1985. It also considered that the "room standard" was contravened where two people of the opposite sex must not sleep in the same room. The advice agency stated that the Council's own policy referred to Band B being applied in cases of severe overcrowding. In its view the Council should backdate band B to reflect the time Ms X should have had this.
26. In May 2022 the Council replied to Ms X that it had reviewed her priority banding. It apologised for the delay responding. The Council noted that the housing advisor considered that Ms X's circumstances should be based on severe overcrowding rather than the current assessment of overcrowding. It referred to the DHC policy (version 9.3 January 2021) regarding overcrowding. It said that the policy stated in appendix 1, regarding definitions:

5.32 The Severe Overcrowding category (Band B) includes applicants who:

- currently lack 2 or more bedrooms-given the size of their household, or
- are lacking 1 bedroom but have 2 children that lack a bedroom. For example a couple with 4 same sex children in a 2 bed home, or a single parent with 2 children under 10 in a 1 bed home, or
- have been assessed by the Environmental Health team of a Devon local authority as a Category 1 hazard due to overcrowding.

5.3.3 Where a household is assessed as lacking 1 bedroom given their household size, they will be placed medium housing need band (Band C). As stated above,

where there are 2 children who are lacking a bedroom, applications will be placed in Band B.

27. The Council confirmed that having considered the information Ms X sent and the DHC policy, it considered she was overcrowded and lacked one bedroom. Therefore, the original banding of band C was correct.
28. When she received the Council's response, Ms X asked its environmental health team to assess her accommodation regarding overcrowding.
29. In May 2022 the Council carried out a Housing Health and Safety Rating System (HHSRS) assessment of Ms X's home. It wrote advising it had considered "Crowding and space" hazards and the level of risk posed. It said it took into account the occupants, the accommodation available and the impact on educational attainment and privacy. It said it found that there was category 1 hazard (B). This was due to the lack of privacy in the open plan space. It said it had advised the Council's home choice team.
30. The Council wrote to advise Ms X that it had increased her band to Band B from 23 May 2022. It said this was as "a result of severe overcrowding (category 1 hazard: lacking one bedroom: Low Health and Wellbeing Need.
31. Ms X appealed against the start date of 23 May 2022. She it should start in August 2019 because her circumstances had been the same since then.
32. In early July 2022 the Council replied that it had reviewed Ms X's banding and considered the correct start date was 23 May 2022 because this was when the council received the environmental health officer assessment.
33. Ms X complained in July 2022. She said that she had spoken to the Council many times questioning the priority band C. She argued that the reviewing officer had ignored the fact that she had been in the same at since August 2019. She said that Council had ignored the rules of the scheme and had taken far too long to agree a higher band.
34. The Council replied to Ms X's complaint in August 2022. It said it had reviewed how it had administered her application to ensure it was correct. However, it apologised it had found that it had awarded band B in error. This was because it had interpreted the DHC policy incorrectly. It said that Ms X's band should have remained band C. It explained that the environmental health team had awarded a category one hazard due to her lacking one bedroom, not lacking two. For severe overcrowding according to the DHC policy 3.5.3.1 severe overcrowding included those who had "been assessed by the environmental health team of a Devon local authority as a category one hazard due to

lacking two bedrooms in accordance with the Housing Health and Safety Rating System introduced by the Housing Act 2004". The Council revised Ms X's band to band C.

35. In September 2022 the DHC Policy was revised to correct the definition of severe overcrowding at paragraph 5.3, and bringing it into line with the priority Band B criteria at paragraph 3.5.3.1. it now included "and lacking two bedrooms" following a category one hazard assessment by the environmental health team.
36. Ms X complained further about the Council's decision. She said the environmental health officer's report clearly stated that she and her son needed a bedroom. She asked how the Council found she lacked only one bedroom. In her view she currently lacked two bedrooms. Therefore, she considered she met the band B terms according to the DHC policy. She also complained about the Council's delay in awarding her priority.
37. The Council replied that it considered its decision that Band C applied to Ms X was correct. It said "There is no question that the open-space layout of your home is suitable to meet your current bedroom and private space need." It said that her home was only suitable for single person occupancy. Therefore, her need was for an extra bedroom. The environmental health officer's assessment confirmed Ms X's home was overcrowded and a category one hazard. The Council's environmental health officer accepted that the open plan nature of home affected Ms X's and her son's ability to relax, study and sleep. But the officer did not assess there was "severe overcrowding" due to a lack of 2 bedrooms. If there had been a third person in the flat and therefore two further bedrooms were required in addition to the sleeping space that currently existed in the home, this would be severe overcrowding, on the basis of a lack of two bedrooms. However, this was not the case and it considered the correct banding was band C.
38. The Council responded to Ms X's complaint about the delay in reaching the correct banding. It said that its responses were within statutory timescales. However, it apologised regarding notifying her of the wrong banding. It said it would carry out refresher training for officers. It accepted it had delayed dealing with her complaint and offered £75 as a gesture of goodwill.
39. Ms X did not accept the Council's offer of £75 and complained further that
  - o the environmental health officer's assessment was that she was hazard band B, category one rating. The DHC policy at 3.5.3 shows and the and therefore it was definitely severe overcrowding.



- The Council's stage one response said "there is no question that the open-space layout of your home is suitable to meet your current bedroom and private space need" but the environmental health officer said there is no privacy for either tenant as bedroom kitchen and lounge are one open space. Ms X did not have any privacy and had to share a bed with her son.
- The DHC policy said that for their household they should have two bedrooms, it did not refer to a sleeping space, it referred to separate bedrooms.
- She asserted, and the housing advice agency supported her view, that she was severely overcrowded. She had stated that she had zero bedrooms on her housing application.
- She said her health was affected and she was suffering from frequent falls. She supplied a doctor letter to support this.

40. In November 2022 the Council responded to Mr X's complaint. It said that while the Council's assessment of band C was technically correct, it had reviewed her file and it would now reinstate her priority band B and backdate it to an earlier date. It offered to backdate priority band B to May 2021.
41. It said that it had previously considered the environmental health assessment and DHC policy and decided she was priority band C in accordance this. This had been on the basis that her home was a habitable, lettable unit and could be reasonably considered suitable for single person occupancy. Therefore, two person occupancy meant overcrowding by one bed need only. The Council agreed that the current policy wording relating to "bedroom" was somewhat specific, and failed to take account of the question whether the property provided adequate sleeping spaces for a household in her situation.
42. The Council said having reviewed the environmental health assessment, it had agreed to exercise discretion and reinstate to band B. It noted Ms X's housing circumstances were causing her additional issues which were not explicitly covered by existing policy, and the environmental health report. The Council said it would backdate her band B to May 2021 because this is when she first made a request for an environmental health assessment. This was on the understanding that her circumstances then were at least equivalent to what they were now. But it did not agree to backdate to August 2019 as Ms X requested. It said this was because there was a lack of evidence of professional assessment of any impact on her health and well-being due to her living circumstances from that date.

## Analysis

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43. Based on the information I have seen, I have not found fault in the Council's decision making that Ms X's correct banding is band C according to the policy and information that the Council received. I note Ms X considers her property has no bedroom and therefore she has a lack of two bedrooms, so should be recognised as severely overcrowded or Band B. But the Council notes that the studio is suitable for a single person, as its open plan living space includes space for sleeping. I do not find fault with the Council's consideration of this.
44. However, the Council has used its discretion to award band B, having considered all the circumstances. It has agreed to back date this to May 2021 as this is when Ms X asked the Council to carry out the HHSRS assessment.
45. Ms X does not accept this and says the Council should backdate priority band B to August 2019. This is because she says her circumstances were the same throughout. She also says that when she visited the Council in August 2019, she explained her circumstances, but it did not carry out an HHSRS assessment. She says the Council was the expert and should have known to assess her, and it should not have been up to her to know and request this.
46. I have considered whether the Council should have backdated band B further than May 2021. I do not consider there is sufficient evidence Ms X raised matters that would require the Council to consider an environmental health assessment.
47. There was fault by the Council in its communications with Ms X. It incorrectly raised her banding for a short period in error. It also referred to the policy criteria for severe overcrowding but did not note that this did not include the requirement for a lack of two bedrooms. I consider this raised Ms X's expectations.
48. The Council was also at fault in failing to respond to Ms X's request in May 2021 for an assessment by the environmental health. The Council appears to have made a request for this to be carried out, but no action was taken. This meant that Ms X had to wait a further year for the Council to complete the assessment.
49. On the basis that if the Council had carried out an earlier assessment in May 2021 and this had led to the current discretionary decision to award band B, Ms X could potentially have lost out on offers of accommodation.

50. I asked the Council whether Ms X would have been offered any of the properties that she bid for from May 2021. The Council has confirmed it would have offered four properties to Ms X. However, it states that these offers would still be subject to landlord checks. The Council did actually make an offer in January 2023, but Ms X did not respond to this.
51. I have considered the offers that could have been made. I do not consider that the first property would likely have been offered to Ms X in any case as it is unlikely the Council would have made the discretionary decision to award band B by that date.
52. I consider there is doubt about whether the three other properties that could potentially have been offered, would have resulted in a formal offer after checks. In addition, I note that Ms X has refused several offers. Taking all the above into account, I consider there is some uncertainty here and I have recommended a remedy for this.

## Agreed action

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53. Within one month of my decision, I recommended that the Council should
- apply the backdated band B priority to May 2021 that it has already offered. Ms X.
  - Pay £200 to Ms X in view of the frustration and uncertainty caused by its delays and errors in responding to her housing allocation priority queries.
54. The Council should provide us with evidence it has complied with the above actions.

## Final decision

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55. I found fault by the Council which it has agreed to remedy. I have completed my investigation and closed the complaint.

## Exeter City Council (23 014 448)

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Category : [Transport and highways](#) > [Other](#)

Decision : **Upheld**

Decision date : **18 Jan 2024**

### The Ombudsman's final decision:

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**Summary: We will not investigate this complaint about the behaviour of a Council parking officer because we are satisfied with the steps the Council has taken and further investigation would not lead to a different outcome.**

### The complaint

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1. Mr Y complained a Council parking officer behaved in an intimidating and rude way towards him while issuing a parking ticket to the neighbour. Mr Y says he felt upset and fearful following the incident.

### The Ombudsman's role and powers

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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 or continue with an investigation if we are satisfied with the actions an organisation has taken or proposes to take. (Local Government Act 1974, section 24A(7), as amended)
3. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service but must use public money carefully. We do not start or continue an

investigation if we decide we could not add to any previous investigation by the organisation, or further investigation would not lead to a different outcome. (Local Government Act 1974, section 24A(6), as amended, section 34(B))

## How I considered this complaint

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4. I considered information Mr Y provided and the Ombudsman's Assessment Code.

## My assessment

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5. Mr Y complained to the Council in November 2023 about the behaviour of a parking officer who Mr Y says behaved in an intimidating and rude manner towards Mr Y and his neighbour while issuing the neighbour with a Penalty Charge Notice. The Council responded, apologising for Mr Y's experience and said the officer involved had been spoken to about the standards expected.
6. This is a proportionate and suitable remedy following such an incident as it seeks not only to apologise to Mr Y, but also to ensure the officer involved is reminded of the behaviour expected. This remedy is in line with our Guidance on Remedies and so I am satisfied with the steps the Council has taken and it is unlikely the Ombudsman would be able to add to the original investigation or that an investigation we may carry out would lead to a different outcome. Consequently, we will not investigate this complaint.

## Final decision

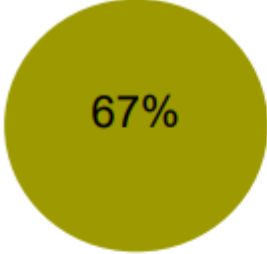
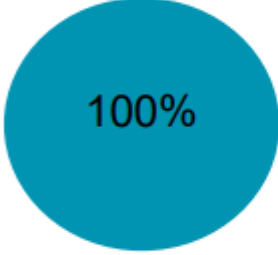
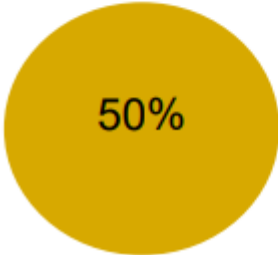
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7. We will not investigate Mr Y's complaint because we are satisfied with the steps the Council has taken and further investigation would not lead to a different outcome.

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

## Annex D

### Ombudsman Summary for Period Ending 31/03/2024

Complaints upheld		
	<p><b>67%</b> of complaints we investigated were upheld.</p> <p>This compares to an average of <b>63%</b> in similar organisations.</p>	<p><b>2</b> upheld decisions</p> <p>This is 1.5 upheld decisions per 100,000 residents.</p> <p>The average for authorities of this type is 1.2 upheld decisions per 100,000 residents.</p> <p>Statistics are based on a total of <b>3</b> investigations for the period between 1 April 2023 to 31 March 2024</p>
Compliance with Ombudsman recommendations		
	<p>In <b>100%</b> of cases we were satisfied the organisation had successfully implemented our recommendations.</p> <p>This compares to an average of <b>99%</b> in similar organisations.</p>	<p>Statistics are based on a total of <b>1</b> compliance outcome for the period between 1 April 2023 to 31 March 2024</p>
<ul style="list-style-type: none"><li>Failure to comply with our recommendations is rare. An organisation with a compliance rate below 100% should scrutinise those complaints where it failed to comply and identify any learning.</li></ul>		
Satisfactory remedy provided by the organisation		
	<p>In <b>50%</b> of upheld cases we found the organisation had provided a satisfactory remedy before the complaint reached the Ombudsman.</p> <p>This compares to an average of <b>21%</b> in similar organisations.</p>	<p><b>1</b> satisfactory remedy decision</p> <p>Statistics are based on a total of <b>2</b> upheld decisions for the period between 1 April 2023 to 31 March 2024</p>