

**Complaint reference:**  
16 000 964

**Complaint against:**  
East Devon District Council

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

Summary: The Ombudsman will not investigate this complaint about the housing register because there is insufficient evidence of fault by the Council.

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## **The complaint**

1. The complainant, whom I refer to as Ms X, says the Council has failed to take her son's medical problems into account when assessing her housing need.

## **The Ombudsman's role and powers**

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. She must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. She provides a free service, but must use public money carefully. She may decide not to start an investigation if she believes it is unlikely she would find fault. (*Local Government Act 1974, section 24A(6)*)

## **How I considered this complaint**

3. I read the complaint and the Council's response. I considered the housing allocations policy and medical information provided by Ms X. I invited Ms X to comment on a draft of this decision.

## **What I found**

### **Council's housing allocations policy**

4. The Council places people in bands on the housing register in order to determine their priority for housing. People in band A are likely to be housed more quickly than people in band E.
5. Examples of people who qualify for band B are households who lack two or more bedrooms or have a high health and welfare need. Health and welfare needs are assessed by considering the impact of someone's current accommodation on their health or well-being. People qualify for band C if they have a medium health/welfare need or lack one bedroom. The Council places people in band D if, for example, they have a low health/welfare need.
6. The policy says a household with four children of the same sex need a three bedroom home.
7. There are legal tests to determine if a household is overcrowded. The law says a living room must be treated as a bedroom.

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### **What happened**

8. Ms X lives with her partner and four sons in a three bedroom home. She moved to this property in late 2014. One son has health problems and receives support. Ms X has kept her son at the school he attended when they lived at the previous address. This means he has a long journey to and from school which Ms X says is detrimental to his health. Ms X says they have little support in the new area and she would like to be nearer to her mother in the old area.
9. Ms X joined the housing register because she wants to move back to the area they left. The Council has accepted the application and placed her in band D on the register. Ms X challenged the decision. She said she should be in a higher band due to her son's problems and because one of the bedrooms is small.
10. The Council reviewed the application but confirmed band D is correct. The Council explained that there was no evidence that her son's well-being was being significantly affected by the current accommodation. The Council assessed the room sizes and decided that one bedroom was only big enough for one child. However, the Council also explained that the household is not overcrowded because the living room could be used for sleeping.
11. Ms X would like the Council to move her to a higher band so she has a better chance of moving to her preferred area. She says the Council has failed to take her son's health needs into account.

### **Assessment**

12. I will not start an investigation because there is insufficient evidence of fault by the Council.
13. The policy says that health/welfare needs are based on how the current accommodation affects someone's health or well-being. I have read the medical evidence and, while the journey to school might be stressful, I have not seen anything to suggest the current accommodation has a negative impact on her son's health.
14. In addition, while I appreciate the family needs more space, the law says the Council must take living rooms into account when assessing if a household is overcrowded. In reality this may be awkward or impracticable but, from the perspective of the law and the policy, there is nothing to suggest fault in the Council's decision not to award more priority for reasons of overcrowding.

### **Final decision**

15. I will not start an investigation because there is insufficient evidence of fault by the Council.

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