

**Complaint reference:**  
16 001 621

**Complaint against:**  
East Devon District Council

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

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

---

## **The complaint**

1. The complainant, whom I refer to as Mr X, says he living in unsuitable accommodation and the Council will not place him in the correct band on the housing register. Mr X wants the Council to re-house him and pay compensation.

## **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 invited Mr X to comment on a draft of this decision.

## **What I found**

### **Housing register**

4. The Council places people in bands to help it determine priority for housing. People in band A are usually housed more quickly than people in band E. The policy says that when a council decides someone has deliberately worsened their housing conditions it will place the applicant in band D. The policy also says that people who have rent arrears of at least £500 to another social landlord will be placed in band E.

### **What happened**

5. Mr X was living in Wales. He had a joint tenancy with his wife for a four bedroom adapted Housing Association property. Mr X left. He says he had to leave due to harassment from other residents. The Council says the police and Housing Association do not agree that it was necessary for Mr X to leave.
6. Mr X moved to a privately rented property in about September 2014. He still had the joint tenancy in Wales. He joined the housing register. The Council placed him

---

in band D because it decided he had worsened his housing situation. The Council registered Mr X for a three bedroom home.

7. Mr X had an Occupational Therapy (OT) assessment which found that the privately rented home was unsuitable for his needs.
8. Mr X placed a bid for a two bedroom Housing Association property. He viewed and then accepted it. His tenancy started in January 2016 and he moved in with his two daughters. His wife subsequently gave up the joint tenancy and came to live with him.
9. Mr X complained about his banding and said the property is unsuitable because there are stairs and the shower is upstairs. He said the OT report showed the property did not meet his needs. He also said it was too small.
10. In response, the Council decided to move Mr X to band E. This was because the Council had found out that he has rent arrears of at least £1000 for the property in Wales. It also said that he had chosen to accept the current property even though he had viewed it and could see that it was too small and unsuitable.

### **Assessment**

11. I will not start an investigation because there is insufficient evidence of fault by the Council.
12. Mr X says his banding is wrong. However, the policy says band E is the correct band for people who owe at least £500 to a social landlord. Mr X has rent arrears of about £1000 so the decision to place him in band E is consistent with the policy.
13. It is unfortunate that Mr X is living in an unsuitable property. But, it was his choice to accept it. The Council did not force him to accept it and is not responsible for the fact that he is living there.
14. Once Mr X has paid the rent arrears he can ask the Council to reassess his banding. However, the Council might decide to place him in band D.

### **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**