

Complaint reference:
15 001 779

Complaint against:
Gravesham Borough Council

The Ombudsman's final decision

Summary: There is no fault in the Council's assessment of Ms A and her son for rehousing on medical grounds.

The complaint

1. Ms A complains about Gravesham Borough Council (the Council). She wants the Council to move her because of problems with mould and neighbours using drugs.
2. Ms A also complains the Council has not assessed her application for rehousing on medical grounds properly.

What I have investigated

3. I have investigated the second complaint. My reasons for not investigating the first complaint are at the end of this statement.

The Ombudsman's role and powers

4. The Ombudsman cannot investigate complaints about the provision or management of social housing by a council acting as a registered social housing provider. (*Local Government Act 1974, paragraph 5A schedule 5*)
5. The Ombudsman investigates complaints of injustice caused by maladministration or service failure. I have used the word fault to refer to these. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
6. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

How I considered this complaint

7. I considered:
 - Ms A's complaint to the Council and the responses
 - Her complaint to the Ombudsman
 - A report by a specialist company dated January 2016 to see how fans are working in Ms A's home
 - A rehousing medical report

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- Correspondence from the Council to Ms A.
8. Both parties have had an opportunity to comment on a draft of this statement.

What I found

Relevant law and policy

9. The Council's housing allocations policy allows applicants whose housing is having a detrimental effect on their health to get priority for rehousing. This means they are higher up on the housing waiting list .

What happened

10. Ms A's housing officer wrote to her in January 2014 to say she should complete a housing application form if she wanted to be rehoused on medical grounds.
11. Ms A's GP wrote to the housing department in November 2014 to say her son had repeated chest infections and these were likely to be made worse by the damp living conditions. The GP asked the Council to consider rehousing.
12. The GP wrote again to the housing department in January 2016 to say Ms A had depression and her son had Attention Deficit Hyperactivity Disorder, chest infections and seizures. He said the environment was not suitable due to cannabis fumes in the ventilation system. The GP enclosed a speech and language therapy report for Ms A's son, a letter from mental health services saying they had discharged her and a paediatric report, which had no reference to rehousing.
13. Ms A used all 3 stages of the Council's complaints procedure. In summary, the Council did not uphold her complaints saying:
 - It had put in equipment to control the condensation and had arranged an inspection
 - The medical adviser had considered the information she sent in about her son's health and did not advise any medical priority
 - Ms A was in Band D on the housing transfer list as she did not have any identified housing need.
14. In January 2016, a specialist company assessed the moisture levels in Ms A's home by taking measurements from fans installed. The outcome was the fans and mould treatment controlled moisture levels in the property.
15. In February 2016, the Council's medical adviser completed a short report. He looked at the information listed in the previous paragraph. The medical adviser said:

“The applicant has a history of depression. The evidence does not suggest that urgent community mental health team or psychiatric intervention is required. The applicant's mental health problem is not profound or enduring enough to interfere with her ability to think rationally or her cognitive thought processing. She is in receipt of standard antidepressant medication. She is not on an enhanced care plan. The applicant's son has ADHD (attention deficit hyperactivity disorder). He also has a background of recurrent chest infections. Urgent specialist interventions and treatments are not needed. There is no evidence of any significant degree of respiratory compromise. There are no other relevant medical issues. The issue is the suitability of the current accommodation which is a three bedroom flat. It is contended that this accommodation is unsuitable on

the grounds that there is a smell of cannabis coming from neighbouring properties. Issues with antisocial behaviour should be reported to the relevant authorities for them to address and correct directly. Otherwise there are no compelling medical grounds to preclude the use of the current accommodation. Therefore, no medical priority applies.”

Was there fault?

16. It is for the Council to assess Ms A’s application for rehousing on medical grounds and decide whether it should attract any priority. There is no fault because the medical adviser considered the medical information Ms A submitted and decided there are no grounds for additional priority. The report did not address the issue of whether the property conditions affected Ms A’s son. But I am satisfied the Council has taken expert advice from a specialist company and there is no significant moisture problem in the property that would mean there should be further consideration of the issue of rehousing on medical grounds.
17. I find no fault by the Council and so have no power to criticise the decision, although Ms A considers the Council has done nothing to help her.

Final decision

18. There is no fault in the Council’s medical assessment of Ms A and her son. I have completed my investigation.

Parts of the complaint that I did not investigate

19. I have not investigated the first complaint because it is about the management of social housing and so is outside the Ombudsman’s scope. Ms A should complain to the Housing Ombudsman .

Investigator’s decision on behalf of the Ombudsman