

Local Government &
Social Care
OMBUDSMAN

Medical assessments for housing applications



Guide for practitioners

July 2024

Introduction

This guide shares the learning from our investigations on medical assessments in housing allocation cases. It aims to help officers in local housing authorities make better decisions on this topic by learning from the mistakes of others.

Our investigations focus on the decision-making process councils follow – we do not say whether councils' decisions are correct or not. Where we find fault in the process, we may:

- > ask the council to reconsider its decision; or
- > find it is more likely than not, the council would have made a particular decision, if it had properly considered the matter.

This guide highlights the common issues we see, based on around 20 detailed investigations we carry out a year.

Using a selection of case studies, the key learning points are grouped into three themes:

- > **independence:** councils should make their own decisions about medical needs, taking into account all the evidence, and not automatically accept the view of the independent medical adviser
- > **evidence:** councils should address all the issues an applicant raises in a medical assessment and provide sufficient evidence and reasoning in their decision. This allows the applicant to understand why the decision has been made
- > **timeliness:** councils should carry out medical assessments and reviews, and issue decisions within a reasonable timeframe

At the end of the guide we provide a good practice summary and our recommendations on how to approach complaints about medical assessments in housing allocation cases.



Legal background

Allocation of social housing

The demand for social housing far outstrips the supply of properties in many areas. To manage the demand, every local housing authority must publish a housing allocation scheme that sets out how it prioritises applicants, and its procedures for allocating housing.

Most councils operate a housing register, which records the details of those waiting for housing. All housing allocations must be made in strict accordance with the published scheme.

Some councils operate an allocation scheme in partnership with neighbouring authorities and housing associations. Some use Arms Length Management Organisations (ALMOs) to manage the allocation scheme on their behalf. However, councils remain responsible for housing allocation decisions made on their behalf.

Prioritising applications

Most councils' allocation schemes use either a banding or points system to decide what priority, if any, should be awarded to an applicant. For example, a council may place an applicant into one of four priority bands (band A to band D) where band A is the highest priority and band D is the lowest.

Councils often use an effective date or priority date, which may be the time spent on the housing register or within a priority band, to help decide priority between applicants in the same band.

Councils have some discretion to decide which categories of person should be awarded priority in their area. But all councils must give what the law calls 'reasonable preference' to:

- > 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

Councils are not required to give equal weight to each of the reasonable preference categories. They are also not required to award higher priority to applicants who meet more than one of the reasonable preference categories, although they may choose to do so.

Applicants can ask the council to review decisions made about a housing application and councils should have review procedures in place, with timescales, for each stage of the process. There is no right to challenge review decisions in court except by Judicial Review.



Medical assessments

Councils must give reasonable preference to applicants who need to move on medical grounds. Many allocation schemes say the council will do a medical assessment if an applicant says their physical or mental health conditions are made worse by their current housing situation. The purpose of the assessment is to decide if they qualify for medical priority under the allocation scheme.

The following list is not exhaustive but includes examples of where an applicant may qualify for medical priority.

An applicant:

- > with mobility difficulties living in a flat above ground floor level in a block which has no lift and who cannot enter or exit the flat without help
- > who can only use a shower but only has a bath in their property, so has to wash at the sink
- > who cannot use stairs but lives in a property which only has an upstairs toilet
- > with a child who has autism and needs a separate bedroom, but currently shares a room with a sibling

Applicants will usually need to provide evidence from a health professional (for example, consultant, GP, occupational therapist, physiotherapist, psychologist, social worker) to support their request. The council may also have a separate form or medical questionnaire for applicants to complete which, ideally, would also provide them with the opportunity to describe their current home and the problems they are experiencing there due to their health and / or disability.

When considering their request, councils may seek advice from external independent medical advisers or ask their own occupational therapist (OT) to carry out an assessment.

But the decision about whether the applicant qualifies for priority, and at what level, is for the council to make based on its allocation scheme and all the evidence provided.



Our approach to investigating complaints

When considering complaints involving medical assessments, we expect to see the council has:

- > **considered all the medical evidence the applicant provided**, as well as the independent medical adviser or OT's assessment. Where an applicant says they have sent information to another council team or says another team has carried out an assessment that is relevant to their request, we would usually expect the housing team to obtain and consider that information too
- > **kept a proper record** to show how it considered the evidence in the context of its allocation scheme, and how it has weighed any conflicting evidence
- > **made its own decision** and made this clear in its decision letter. For example, it should not be saying "its medical adviser has decided". The council may set out the independent medical adviser's view, but we would expect it to go on to explain its reasons for the decision reached
- > **explained its reasons** for making its decision in its decision letter to the applicant. In the case of a refusal, the decision letter should explain why the medical evidence the applicant provided was discounted or was not sufficient to award priority or was only sufficient to award a lower level of priority than the applicant wanted
- > **not delayed** in doing its assessment, issuing its decision and, if appropriate, carrying out a review of the decision. Where the council's allocation scheme has timescales for making decisions or carrying out a review, we expect these to have been met, unless there are good reasons why this was not possible. We would not usually consider a high workload or backlog of work to be a good reason. Where councils know there will be a delay, they should keep applicants informed about the reason(s) for the delay and the likely timescale for a decision.

How much information is needed in decision letters?

At the initial decision stage, we expect the council to provide enough information to allow the applicant to ask for a review and provide appropriate supporting information.

The council may need to provide a more detailed explanation in a review decision to ensure the basis for its decision is clear.



Human Rights Act 1988 and Equality Act 2010

We cannot say that a council is in breach of the above legislation, but we may conclude a council has not had “due regard” to an applicant’s rights in certain circumstances.

For example, someone with a disability is unable to use stairs unaided and lives alone in a first floor flat without a lift. In this situation, we would expect a council to consider their inability to leave or enter their flat unaided, in a medical assessment of their housing needs. They cannot live an independent life and are at a significant risk of harm in the event of an emergency situation in the block. A failure to do so may impact on their human rights and indicate that the council has not had due regard to its public sector equality duty.

Remedying faults in the decision-making process

We are not an appeal body. We do not substitute our view for that of the council. If we find fault in the decision-making process, we may ask the council to **reconsider** the request and make a **fresh decision**.

We will often ask the council to make a **meaningful apology** (see our [Guidance on Remedies](#) for more information about making an apology).

We may also ask councils to **back-date an applicant’s priority**. And we may recommend a **payment**, for example, where the council’s delay has meant the applicant has been living in unsuitable accommodation.

In some cases, we may make a balance of probabilities decision about what the council would have decided, had it not acted with fault. This is to establish the extent of any injustice. For example, this might be where, but for the fault, an applicant would have had a higher priority and potentially missed out on an offer of housing. Where we identify an applicant has missed an offer of housing, we may ask the council to **offer them the next suitable property** that becomes available.

We may also recommend **improvements to services** to prevent the same fault occurring again in future.

And we have the power to consider whether **other applicants** have been **affected** by the same faults in the past and recommend a remedy for them.



Key issues and learning points

Council not making its own decision or not considering all the evidence

A council should make its own decision about medical priority, after taking into account all the evidence, and not automatically accept an independent medical adviser's view.

However, a common fault we find is where councils simply accept the view of the independent medical adviser and fail to record or explain how they weighed any conflicting evidence from the health professionals involved with the family, and their own medical advisers.

We expect councils to provide independent medical advisers with accurate information, be clear about the questions they are asking and keep a record of the advice they receive. We also expect councils to critically assess the independent medical adviser's opinion and balance it against any conflicting evidence provided by the applicant.

Where the council accepts the independent medical adviser's view, it should explain its reasons for doing so, to ensure it is clear it is the council's decision and not that of the adviser.



John and Beverley's story Case ref: [21 003 774](#)

When John and Beverley applied to join the council's housing register, they said they needed three bedrooms to meet the disability needs of their two boys and they provided medical evidence to support this.

The council decided they only needed two bedrooms because the boys were under age 10. This was based on medical advice given on two occasions. Both times, the independent medical adviser said the boys did not need separate bedrooms because of their age but recommended additional space on medical grounds. It was not clear why they recommended this over separate bedrooms.

In its decision, the council focussed only on the age of the boys and did not explain how it had considered the medical evidence John and Beverley provided or how it had weighed that against the advice of its independent medical adviser. We concluded it had simply accepted the independent medical adviser's view.

In the second set of advice the independent medical adviser also advised about the appropriate priority band. This went beyond the role of the independent medical adviser.

Putting things right

We asked the council to:

- > apologise to John and Beverley, and pay them a symbolic amount for their time and trouble pursuing the matter
- > review the request for separate bedrooms for the boys, including any further evidence John and Beverley wanted to provide, and make a fresh decision; and
- > give guidance to relevant staff about the need to provide clear reasons for decisions about how many bedrooms are needed, which explain how it has weighed any conflicting evidence from health professionals involved with the family and its own independent medical advisers.





Pia's story

Case ref: [22 014 730](#)

Pia lives with her two children. They all have medical needs. Due to the council's delay in dealing with her homelessness application, Pia found her own private rented property. But this was two storey and did not meet their needs. Before moving, her housing application was in band B for a three bedroom property, with an effective date of 2016.

Following her move, the council told Pia she was now in band C and could bid for three bedroom properties. But Pia found she could not bid on three bedroom properties. The council said its decision letter was wrong and she was in band C for two bedrooms. It refused to amend its letter and told her to ask for a review.

Pia asked for a review and provided supporting medical evidence. The council referred this to its independent medical adviser, who recommended band C and three bedrooms. The council informed Pia. It said the two bedroom decision was based on a more urgent need to move in 2016.

In 2022, Pia asked for a further review, requesting the effective date to go back to the original date in 2016, and provided further medical evidence. The council did not carry out the review for five months when it upheld the independent medical adviser's view. Pia told the council its decision was unreasonable and complained to us. The council agreed to backdate her priority to 2016.

Our investigation found the council:

- > was wrong to insist on a review to correct the mistake about the number of bedrooms rather than issuing an amended letter, and then delayed in carrying out the review, taking five months;
- > was wrong not to amend the priority date sooner;
- > did not show how it had considered all the evidence, but appeared to have simply adopted the independent medical adviser's view; and
- > failed to give reasons for discounting the medical evidence Pia provided.

Putting things right

We asked the council to:

- > apologise in writing to Pia, and pay her £300 for the frustration, and loss of opportunity due to its errors and delay;
- > review her application and send a decision letter with an explanation of how it reached its decision. (If the review resulted in a higher priority band, we said it should backdate this to the appropriate date in line with its allocation scheme); and
- > remind relevant staff of deadlines for responding to review requests, and the need to explain how decisions were reached (including the weight given to advice and any other factors considered).





Jocelyn's story

Case ref: [21 018 485](#)

Jocelyn asked for an extra bedroom on medical grounds because she said her two children could not share a room due to the older child, Evan's medical conditions, which affect behaviour and sleep. She also said they needed a ground floor property because of Evan's medical condition. She provided evidence from Evan's paediatrician and his child development nurse.

The council's independent medical adviser considered the request and agreed to change the family's priority band. This would allow the family to bid for properties on the first floor but did not allow an extra bedroom. There was no evidence to show how it considered a first floor bedroom was safe for Evan in light of the medical evidence provided, nor why the medical evidence did not meet its own criteria for a higher priority band.

Jocelyn asked for a review and provided new medical evidence, which the council sent to its independent medical adviser. The council's review decision referred to its standard rules about siblings sharing bedrooms but did not explain how it had considered the medical evidence.

Jocelyn asked for a further review and pointed to the medical evidence she had already provided. Again, the council sent the information to its independent medical adviser. The adviser recommended screening a room to give Evan some private space. The council sent this on to Jocelyn without checking whether any room in the house would be suitable to do so. The council told us this was informal advice from its independent medical adviser and agreed it should have made that clear. As a result, we were not satisfied the council had properly considered whether Evan needed his own room.

Putting things right

We asked the council to:

- > apologise to Jocelyn and pay her £250 for the avoidable time and trouble she was put to;
- > reconsider the request for an extra bedroom; and
- > remind relevant officers:
 - the council must make its own decisions on medical priority and should record how it has considered the independent medical adviser's recommendation in the context of all the evidence and with reference to its allocation scheme;
 - its priority banding review decisions should say clearly why it has reached its decision with reference to the evidence and its allocations policy; and
- > about the importance of assessing and responding to any risks identified by applicants in relation to their property.



Council not addressing all the issues and not providing sufficient information and reasoning

Councils should make sure they have considered all the issues raised in medical assessments and keep proper records on how they did this.

We expect to see more detailed reasons given at the review stage, including a response to the points raised in the review request.

We expect councils to give sufficient information on the basis for an initial decision so applicants can request a review.



Anjali's story

Case ref: [22 012 907](#)

Anjali asked the council to consider awarding Health and Independence priority on its housing register. She provided a letter from her GP, her GP patient records and a completed Health and Disability form.

The council referred the case to its independent medical adviser and accepted its view. The council's decision letter referred to the independent medical adviser's decision. This was fault because although it is entitled to consider an independent medical adviser's view, the decision should be made by the council.

Anjali asked the council to review its decision, and we were satisfied the reviewing officer adequately considered the case at that stage.

The records showed the council considered the criteria in its allocation policy and the medical evidence provided. It also considered Anjali's living situation and the concerns she raised about the impact this was having on her health. It also explained reasons and rationale for its decision.

Because we found no fault in the way the council carried out its review decision, we did not comment on the decision it reached.





Nerys's story

Case ref: [22 011 858](#)

Nerys had been receiving treatment for the impact of persistent antisocial behaviour on her mental health. She had previously applied for alternative housing and the council placed her application in Band C.

Later she provided a letter from her GP, confirming the treatment she was receiving and that she would benefit greatly from a move away from her disruptive neighbours. She did not request a review of her banding.

Months later Nerys provided more medical evidence from her GP along with three police incident letters in the intervening period. The council reviewed her banding but decided she did not have any medical priority. It said it had sought advice from its independent medical adviser before deciding she did not qualify for additional priority. It said she did not have a right to ask for a review of the decision.

Nerys queried the decision and asked if the council had received all her evidence including information from her housing officer and the antisocial behaviour team. The council did not respond.

Nerys submitted a more detailed statement explaining the problems she had experienced from her neighbours. The council reviewed her application and increased her priority to Band B and backdated it to the date it received the more detailed statement two months previously.

Our investigation found:

- > the council should have contacted Nerys twice on receipt of the medical evidence and confirmation of the antisocial behaviour incidents, to ask for more details about her situation
- > the review decision was lacking detail because it
 - gave no reasons why it did not consider Nerys's health was affected by her housing situation,
 - said it had sought advice from its independent medical adviser when it had not done so;
- > said she did not have a right of review against the decision: the council failed to respond to her email querying the decision and failed to notice it had not received all the information she provided, which may have resulted in a different decision being made.

Putting things right

We asked the council to:

- > backdate the Band B priority to when Nerys provided evidence of medical treatment and the incidents of anti-social behaviour involving the police;
- > pay her a symbolic amount for the distress caused, and the avoidable time and trouble Nerys was put to;
- > ensure decisions are accurate, contain reasons and provide a right of review where appropriate; and
- > remind staff that when information is received indicating a change of circumstance, it should contact the applicant to ask for all the information about their situation.



Councils delaying doing medical assessments, carrying out reviews, and issuing decisions

We expect to see councils have carried out assessments and sent decisions, or review decisions, without undue delay.

Where the council's allocation scheme sets out timescales for making decisions or carrying out a review, we expect these to have been met, unless

there are good reasons why this was not possible. For example, where further medical evidence was needed and a delay in obtaining that was outside the council's control.



Kosi's story

Case ref: [22 001 571](#)

Kosi became homeless following a house fire and was placed in temporary accommodation. She asked the council for alternative temporary accommodation on medical grounds. She also asked for medical priority on the housing register. The council said it would refer the case to its independent medical advisers but delayed doing so. The delay meant the information was out of date before the independent medical adviser considered it as Kosi had since moved.

The independent medical adviser gave an opinion within seven days of receiving the information, but the council delayed telling Kosi its decision. Kosi asked for a review. It was only then the council realised she had moved and asked for information about the new temporary accommodation. It carried out a fresh medical assessment, following which it awarded priority Band 2 with a severe medical need to move.

The independent medical adviser said Kosi needed a property without stairs and a low shower. Her accommodation at the time had 30 steps and no shower. This information should have led the council to review the suitability of the temporary accommodation, which it did not do.

The council's delays meant Kosi:

- > was prevented from asking for a new medical assessment when she moved to alternative temporary accommodation;
- > was awarded the wrong priority on its housing register for a prolonged time; and
- > remained in unsuitable temporary accommodation for several months longer.

Putting things right

We asked the council to:

- > apologise for its failures; and
- > pay Kosi £500 for the distress caused and the avoidable time and trouble she was put to.





Asher's story

Case ref: [21 015 601](#)

Asher applied to join the council's housing register and provided medical information. The council sent this to its independent medical adviser. Its view was that Asher had no medical priority to move because there was no compelling or significant medical evidence that made his current accommodation unsuitable. Despite the independent medical adviser's view, the council awarded 10 medical points on the grounds Asher's mental health would benefit from living nearer his daughter.

Some months later, Asher provided a psychiatric assessment which the council considered in

addition to the other medical evidence provided.

The council told Asher three months later that it had decided this did not affect the medical points awarded.

Although we found fault with the delay, we did not consider this caused Asher a significant injustice. This was because the outcome was the same and there was no evidence Asher had chased the council for a decision or expressed concern about the delay at the time.



Bernadette's story

Case ref: [22 009 623](#)

Bernadette asked the council to review her priority banding and provided medical evidence to support this in late September. The council's independent medical adviser considered the evidence in mid-January but did not agree Bernadette was eligible for medical priority.

In March and June 2022, Bernadette provided further medical evidence, which the council's independent medical adviser considered in August – nearly a year since she first provided evidence.

The council considered the adviser's recommendations and other evidence before deciding to award Band C for medical needs.

We found no fault in the way the council reached its decision, but there were significant delays in considering the medical evidence Bernadette provided on both occasions.

On balance, we found that if the evidence provided in June had been considered without delay, it would have resulted in a change to band C earlier. However, there had been another change of circumstances that meant Bernadette's priority had been back-dated in any event. Therefore she did not suffer an injustice as a result of the delay.



Summary of learning points and good practice

When considering requests for medical priority, councils should:

- > consider all the evidence provided;
- > keep a proper record of how the evidence has been considered, in the context of its allocation scheme;
- > make its own decision and not simply accept the view of an independent medical adviser;
- > provide the applicant with a written decision, setting out its reasons;
- > carry out its assessment or review and make its decision without undue delay.

Good practice – dealing with complaints

- > When investigating complaints, councils should consider the learning points set out above.
- > If a council identifies its service has fallen short, it should consider:
 - what the impact of that was for the applicant, and
 - what steps it can take to put matters right.
- > In considering what steps are needed to put matters right, the council may wish to consider our [Guidance on Remedies](#). The council may also want to look for decisions published on our website about similar situations.
- > Where the Ombudsman has completed an investigation, it is good practice to share the decision with relevant staff to maximise the learning from the case (whether this is good practice or where service improvements were needed).



Local Government and Social Care Ombudsman

PO Box 4771
Coventry
CV4 0EH

Phone: 0300 061 0614
Web: www.lgo.org.uk
X: [@LGOmbudsman](https://twitter.com/LGOmbudsman)