

**Report
on an investigation into
12 021 104 against
Sandwell Metropolitan Borough Council**

30 January 2014

**Investigation into 12021104
against Sandwell Metropolitan Borough Council**

Contents	Page
Report summary.....	2
The complaint.....	3
Legal and administrative background.....	3
The Ombudsman’s role and powers.....	3
Disabled Facilities Grants (DFG)	3
How we considered this complaint	3
What happened.....	3
Findings.....	5
Conclusions.....	6
Recommendations	7

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr B the complainant
Mrs C the complainant’s mother

Report summary

Disabled Facilities Grants

Sandwell Metropolitan Borough Council delayed in dealing with an application for a Disabled Facilities Grant (DFG) to provide accessible bathing facilities for Mr B's mother, Mrs C. Mr B first contacted the Council in late 2007 but the Council did not start the assessment of her needs until January 2010. It did not complete the assessment until August 2011. Due to the delay Mr B carried out his own work to build an extension. In 2012 the Council refused to help him further.

Finding

Fault found causing injustice and recommendations agreed

Agreed remedy

The Council has agreed to:

- assist Mr B in making the necessary building regulations application for the shower-room at no cost to him;
- assess whether the shower-room meets Mrs C's needs. If not, it will assist Mr B in completing a DFG application for any modification work;
- pay Mr B £7,000, equivalent to the cost of the lift it originally recommended and £1,000 in recognition of the frustration, distress and uncertainty he has been caused; and
- pay £2,000 to Mrs C for distress and inconvenience caused by the delay in providing accessible showering facilities.

The complaint

1. Mr B complains that Sandwell Metropolitan Borough Council (the Council) has delayed in dealing with an application for a Disabled Facilities Grant for his mother, Mrs C. He first contacted the Council in 2007. In 2010 he carried out his own work to build an extension. In 2012 the Council refused to help him further. It has also blamed him for the delays which he considers to be unfair and inaccurate.

Legal and administrative background

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this report I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and, if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A91*)

Disabled Facilities Grants (DFG)

3. A DFG is a grant for the provision of facilities for a disabled person in a dwelling. The local housing authority is responsible for administering the DFG process but it has to consult with Adult Social Care Services on the housing adaptation needs of the disabled people applying for a grant. The housing authority has to decide what action should be taken on that advice. The housing authority must also decide whether the application is approved. In order to approve a grant it must be satisfied that the proposed works are necessary and appropriate to meet the needs of the disabled person, and that it is reasonable and practicable to carry them out.
4. Works to provide a disabled person with a toilet and washing, bathing and showering facilities are eligible for a mandatory grant, which is payable up to a maximum of £30,000 (section 23 Housing Grants, Constructions and Regeneration Act 1996).

How we considered this complaint

5. This report has been produced following the examination of relevant correspondence and documents from the complainant and the Council.

What happened

6. Mr B's mother, Mrs C has a number of health conditions affecting her mobility and sight. In 2007 she only had sight in one eye. She lives in Mr B's property with his wife and four children. Mr B first contacted the Council in 2007 about assistance in his home for his mother. The Council installed some grab rails, provided walking aids and other equipment to help her in the bathroom which is located on the first floor. There is a downstairs toilet.
7. In late 2007 Mr B requested a further assessment in terms of bathing as Mrs C was having difficulty accessing the bathroom. The Council visited and noted poor mobility. It wrote to Mrs C's GP requesting medical information. It did not receive a response and did nothing further. In August 2008 Mr B asked again for a downstairs shower. Again the Council wrote to Mrs C's GP but did not receive a response.

8. In May 2009 Mr B asked a third time for a grant to provide a downstairs shower. In December 2009 the Council referred the case to its Major Adaptations Team for an assessment in respect of accessible bathing facilities, with a view to providing a DFG.
9. In January 2010 an Occupational Therapist [OT] carried out an assessment of Mrs C's needs and recommended the installation of a stair-lift and conversion of the first floor bathroom into a level access shower. She wrote to Mr B outlining the recommendation and saying if he wished to pursue the ground floor option he would have to contribute to the cost. Mr B contacted the Council to find out how much he would have to pay. He says during a telephone call the OT said the Council would pay roughly £8,000, the cost of a stair-lift and Mrs C would have to fund the remainder. The Council says it indicated the cost of the stair-lift would be £7,000.
10. In February 2010 Mr B informed the Council that Mrs C now had limited sight in her remaining eye and was registered blind. He sent a letter from her doctor confirming this in early March 2010. The OT asked the Council's Vision Services department to give its professional view of the suitability of the stair-lift given Mrs C's sight deterioration. The OT chased her request in April 2010 and June 2010.
11. In March 2010 Mr B began to carry out an extension to the property himself. He borrowed money from friends and family to do this. It involved a rear extension for a lounge and kitchen and creating a downstairs shower-room for Mrs C.
12. In the meantime Mr B had made an enquiry via a local councillor and requested help. A Rehabilitation Officer visited in May 2010 and then realised that the OT had already made an assessment.
13. Vision Services eventually sent a letter to the OT on 23 July 2010. It said that Mrs C had poor mobility and severely impaired sight. She was afraid of falling and was scared of using mechanised or electrical tools. Its view was that she may be able to learn to use a stair-lift, but given the children in the house and the frequency of bathroom use, it considered ground-floor facilities would better meet her long term needs. The OT replied to this saying she would consider a through-floor lift and get back to Vision Services.
14. Mr B wrote to the Council in August and October 2010 chasing progress. The Council arranged an appointment for an Assistant Rehabilitation Officer to visit on 12 November 2010. But the OT intervened and said it was being dealt with as a complaint at a higher level so the visit should not go ahead. It was cancelled.
15. The Council did not contact Mr B until January 2011 when it said it wanted to arrange for Mrs C to attend the Independent Living Centre to assess whether she could use a lift. An appointment was arranged for 22 February 2011. Mr B cancelled this on 15 February 2011. The Council did not contact him to arrange an alternative and Mr B did not contact the Council again until April 2011. The assessment took place on 17 May 2011. It concluded that Mrs C was unable to use a stair-lift and a vertical lift was unsuitable due to the rest of the household. The OT said she needed to discuss the case with her manager.
16. The meeting with the OT's manager did not take place until 20 July 2011. The OT then referred the case to the Major Adaptations Team. The Council made no further contact and Mrs C was admitted to hospital on 9 September 2011. She was discharged on 28 November 2011 and the Council arranged another assessment

appointment for 21 December 2011. Unfortunately Mrs C went back into hospital on 14 December 2011 and remained there until April 2012.

17. The Council's Major Adaptations Feasibility Officer and the OT visited on 17 May 2012 and noted the shower-room extension was complete. The OT recommended that the shower-room be increased in size by using some of the hallway because the existing facilities would present a risk to Mrs C and her carers due to the construction of channelling around the edge of the shower room. The case was given priority as urgent.
18. The Feasibility Officer visited again on 21 June 2012 to complete a DFG application. This time he noted that Mr B had not obtained building regulations approval or planning permission for the extension.
19. The officer emailed the planning department to seek advice. The Planning Officer said the extension may need planning permission but that would depend on the size and location of the boundaries of the property. He asked for the details from the Feasibility Officer so he could check and if planning permission was required he would send the application forms. He said his colleague was dealing with the building regulations side. There is no further record of whether the Planning Officer concluded that planning permission was required.
20. The Major Adaptations Team closed the DFG case on 4 July 2012, saying Mr B needed to obtain building regulations approval and planning permission.
21. Mr B provided a completion certificate under the building regulations in November 2012. He said the Council and his architect had confirmed that planning permission was not required because the extension was permitted development.
22. In November 2012 Mr B made a formal complaint to the Council about the failure to pay him a DFG. The Council replied on 13 March 2013. It did not uphold his complaint. It detailed events from the end of 2009. It placed the responsibility for the delays with Mr B's failure to respond to letters at certain points, the cancellation of the appointment in February 2011 and Mrs C's prolonged stay in hospital. Latterly it said the delay was due to Mr B failing to provide evidence that planning permission had been obtained or was not required.
23. Mr B complained to the Ombudsman in May 2013.
24. In response to my enquiries the Council said it cannot now pay a DFG because the work has been done and DFGs cannot be paid retrospectively. It offered to carry out a further assessment to see if the shower-room met Mrs C's needs and consider a DFG if any further work is necessary. It also confirmed that planning permission was not required for the bathroom extension. Furthermore it said that building regulation approval has not been given for the shower-room. It was actually given for the extension to the lounge and kitchen. It has offered to assist Mr B with the process now at no cost to him.
25. Mr B says the extension is still not complete.

Findings

26. Fault found causing injustice and recommendations agreed.

Conclusions

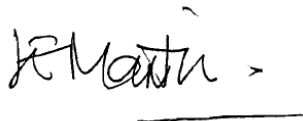
27. Mr B has been requesting assistance with bathing facilities for Mrs C since late 2007. The Council did not carry out an assessment until January 2010. Mr B's contact during this period was infrequent but I consider that the Council should have taken more effective action in response. It failed to chase up the GP for medical evidence and took no further action until Mr B contacted the Council for a third time about the shower in May 2009. The failure to take any action was fault.
28. Once the Council was aware in March 2010 of Mrs C's loss of sight, it took far too long to assess whether its original recommendation was still suitable. It finally decided 14 months later that Mrs C could not use a stair-lift and a through-floor lift was unsuitable. I consider this decision could and should have been made within three months of March 2010. The failure to act sooner and more quickly was fault.
29. I agree that Mr B cancelling the appointment in February 2011 caused several months' delay but again I consider the Council should have contacted him to rearrange the appointment rather than waiting for him to get in touch. To exacerbate the excessive delay the Council then blamed Mr B entirely for that period without acknowledging any of the delay by its own officers, including cancelling an appointment in November 2010 simply because Mr B had made a complaint. This unfair action was fault.
30. Once the Council had decided its original recommendation was unsuitable it again allowed the matter to drift. The OT took two months to raise the case with her manager and then referred it to the Major Adaptations department. No contact was made for the next two months and Mrs C then went into hospital. Unfortunately no progress was then possible for the next seven months as she did not return until April 2012. This delay was fault.
31. From this point the Council acted promptly and carried out a further assessment in May 2012. But I consider it was unacceptable to simply close the case in July 2012 once it discovered Mr B had not gained planning permission. The Council did not even establish until September 2013 whether planning permission was required. This fault has been exacerbated by the length of time it took to respond to his complaint.
32. I am concerned at the Council's slow and ineffectual approach to providing an elderly blind woman with multiple health problems access to suitable bathing facilities via a mandatory statutory grant scheme. It has been very quick to close the case if Mr B has not responded promptly to correspondence but less concerned with making decisions or progressing the case when the information has been provided.
33. The delay and lack of effective action has also caused Mr B a significant amount of frustration and stress. He is in financial difficulties and the pressure to borrow more money to build the shower-room himself has caused him considerable distress.
34. If the Council had had taken action in response to Mr B's first request for help with bathing facilities for Mrs C (in late 2007) the DFG assessment could have started in 2008 and been completed within 12 months. Mrs C's sight had not deteriorated to such an extent at that stage. But it is still likely she would have been eligible for a mandatory grant. So I have concluded, on balance, that had it not been for the Council's delay, the Council would have paid Mrs C a grant for the cost of providing

accessible bathing facilities, either by providing a stair-lift or contributing towards a ground floor extension.

35. This may have affected Mr B's decision to proceed with the extension or, had there been no delay, he could have started the project with the certainty of knowing how much the Council would pay towards it. The Council's delay from 2010 to 2012 caused Mr B a significant degree of frustration, time and trouble.
36. The delay and lack of effective action has left Mrs C without accessible showering facilities for approximately three years. The extension carried out by Mr B provided her with showering facilities from 2010 but these still may not entirely meet her needs and may require modification.

Recommendations

37. I welcome the Council's agreement to remedy the injustice caused by its fault, by agreeing to:
 - assist Mr B in making the necessary building regulations application for the shower-room at no cost to him;
 - assess whether the shower-room meets Mrs C's needs. If not it will assist Mr B in completing a DFG application for any modification work;
 - pay Mr B £7,000 equivalent to the cost of the lift it originally recommended and £1,000 in recognition of the frustration, distress and uncertainty he has been caused; and
 - pay £2,000 to Mrs C for distress and inconvenience caused by the delay in providing accessible showering facilities.



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30 January 2014