

The Ombudsman's final decision

Summary: The City Council was not at fault in the way it approved the schemes for the bathroom adaptations or the stair lift. It was right for the Council to explain to Mrs A that she could not include in later applications adaptations which were already necessary. However, the Council was at fault in the way it liaised with the County Council about the provision of a ramp, and in the lengthy delays in providing, after 18 months, the modular ramp Mrs A requested initially. The Council should pay £1000 to Mrs A's family to acknowledge the injustice caused.

The complaint

1. Mrs A complained to us about the actions of the City and County Councils in delaying making proper arrangements for grant-aided works to meet her needs as a disabled person. She complained about delays in installing a ramp to allow access and egress from her property; she said the City Council's grants officer had approved a cheap, unsuitable stair lift; she complained about poor liaison with herself and with the County Council about the approval of a Disabled Facilities Grant (DFG); she complained about lack of liaison between the Councils about the grant for the bathroom adaptations which she then had to pay a considerable amount towards. She said the delays and the failure of liaison had caused her and her family considerable stress at a difficult time. Mrs A sadly died during the complaint investigation but Mrs X, her mother, wished to pursue the complaint on her behalf.

What I have investigated

2. I have investigated the complaint as set out above. I have also investigated the complaint against the County Council which is under a different reference number (13 014233).

The Ombudsman's role and powers

3. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. 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

4. I considered the written information provided by Mrs A and by the Council. This includes the details of the grant applications. Mrs X and the Council have both had an opportunity to comment on an earlier draft of this decision.

What I found

5. DFGs are provided under the terms of the Housing Grants, Construction and Regeneration Act 1996. Councils which are housing authorities (such as the City Council) have a statutory duty to provide grant aid to disabled people for a range of adaptations. Before approving a grant a council must be satisfied the work is “*necessary and appropriate*” to meet the disabled person’s needs and also “*reasonable and practicable*”. The council need to be satisfied about each of these matters, and the overall feasibility of the works, if they are to give a DFG. A local council can refuse a disabled facilities grant if they believe the scheme is not reasonable and practicable.
6. The maximum amount of a grant payable by a council is £30,000. Other discretionary help can be awarded if the council thinks it is necessary.
7. A council should give the applicant a decision on a grant application as soon as reasonably practicable. This must be within six months of the grant application.
8. The mandatory DFG does not include the ongoing service and maintenance of any adaptations provided. Once installed, the facilities are owned by the applicant and they are responsible for any future repairs.
9. Council which are social services authorities (such as the County Council) have a duty to meet the needs of disabled people in their area by “*the provision of assistance for that person in arranging for the carrying out of any works of adaptation in his home or the provision of any additional facilities designed to secure his greater safety, comfort or convenience*” (Chronically Sick and Disabled Persons Act 1970, section 2)
10. “*Delivering Housing Adaptations for disabled people – A good practice guide*” sets out a number of questions councils should consider in meeting the needs of disabled people. One of these is “*What scope exists within our system for making an interim response in the interests of the service user in advance of a full service response against assessed need?*” (Annex A, question 37)

What happened

11. Mr and Mrs A were both disabled with severe arthritis. Mrs A’s condition was worse, as she had suffered from the disease since infancy. By the time she applied for help from the County Council in 2009 she was already having surgery to replace her major joints for the second time.

The initial application and the stair lift

12. Mrs A contacted the County Council in January 2009 for help. Because of a long waiting list for occupational therapy assessments, it was not until November that an Occupational Therapist (OT) visited Mrs A. The proposed service provision was for a stair lift, works to make one entrance wheelchair accessible, the requested bathroom adaptation including level access shower, and to order suitable equipment to maximise independence in the kitchen.
13. In December the County Council (as the social services authority) made a referral for a DFG to the City Council (the housing authority), initially for a stair lift as that

was the most urgent item. Subsequently the County Council also made a referral for adaptation to the bathroom, and adaptation to the front door to facilitate wheelchair access, including the provision of a ramp.

14. The City Council approved the DFG for the stair lift on 23 December. The DFG approved amount was based on the cheaper of the two quotes, in accordance with the City Council's standard procurement practice. The grant included additional electrical works. The stair lift was installed on the 10 February 2010. Mrs A returned a completion notice to the City Council on 17 February confirming that she was satisfied with the lift. The grants officer inspected the lift on 4 March and signed off that it was installed and was in good working order.
15. Mrs A said in her complaint that she came home from work to find the lift had been fitted (although the County Council says clients are supposed to be present when the lift is installed). Mrs A said it was poorly fitted (she said it ended in the stairwell), was too far out from the wall and was uncomfortable but that she "*let it go*" as by then she was already concerned about the length of time her request for bathroom works had taken.

Bathroom adaptations

16. The initial referral from the County County OT in January 2010 included the following adaptations:
 - Removal of internal wall separating bathroom and WC
 - Provision of a combi-boiler
 - Installation of level access shower but also keeping the existing bath
 - Repositioning of WC and WHB
 - Non slip flooring
 - Removal of original bathroom door

The grants officer approved the installation of these items on 26 January.

17. Mrs A's brother acted as her agent for the works. In the specification he sent to the City Council in February 2010, he included items which the City Council said were not eligible for mandatory grant aid as they did not fulfil the remit of facilitating Mrs A's access around the property. These included high specification lighting, towel rail, vanity unit, high specification bath, high specification wall hung WC, high specification flooring, and wall boarding rather than tiling.
18. The grants officer allowed amounts for a standard bath, a standard WC, and tiling rather than wall boarding. Initially she refused the request for the high specification flooring but allowed it after it became clear it was recommended by the County OT. Mrs A said she needed a flat-edged basin (the "vanity unit") so she could rest her elbows on it to clean her teeth but she said while the OT understood this, the grants officer from the City Council did not.
19. The City Council approved a grant for £8100 for the bathroom adaptations in May 2010. Mrs A wrote to the County Council in June complaining that the grant approved left them with a shortfall of £6000 which they could not fund. She also contacted the City Council.
20. The grants officer responded to Mrs A. She said the DFG approved was for works which seemed "*reasonable and practicable*" within the mandatory requirements of the legislation. She added that the amount approved included an additional sum of £1335 for non-standard items.

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21. Mrs A wrote back. She explained that some of the non-standard items (the radiator and the wall-hung WC cistern) were included because of the ease of cleaning. The grants officer sought advice and confirmed the refusal because, she said, the items requested were for "*personal want*" (so Mrs A could more easily clean behind them) rather than "*medical need*".
 22. The grants officer and the County Council OT manager met to discuss Mrs A's concerns in July. They subsequently wrote to Mrs A explaining that both the County and the City Councils had a duty to separate out what was desirable from what was a basic need which was able to be grant-aided. The grants officer set out in a separate schedule the reasons why particular items could not be grant aided and why she had approved standard amounts (for example for the flooring) rather than the amount requested.
 23. Mrs A said she expected the grants officer would respect the OT's professional judgement and make available the funding according to the specification. The final grant approved increased to £9046.

Provision of a ramp

24. Mrs A said when she was due to go into hospital in 2012 for ankle surgery she knew she would be unable to bear her weight after the operation. She asked the City Council for the loan of a temporary modular ramp to enable access. She said she was told nothing could be provided until after she was discharged from hospital. She said she was determined not to be upset again by grant application arrangements so she "*allowed herself to be persuaded*" that she needed a permanent concrete ramp at the side of the house, somewhere dry to park her mobility scooter, an intercom and a charging point for the scooter. Mrs A contracted with an agent to draw up the schedule of works in conjunction with the OT.
25. The grants officer wrote to Mrs A in September 2012 outlining the schedule of work which would be considered for grant aid. This included a ramped access to the front door, removing the front door and replacing it with wheelchair accessible door and threshold, and removing and replacing an internal door with a wheelchair accessible door and threshold. (The City Council says while it does grant aid adaptations to store and charge a mobility scooter as it is considered to facilitate access by the disabled occupant to and from the dwelling, this was not requested by Mrs A, the OT or the agency which managed the works. The Council adds that it would have been grant aided if an application had been made.)
26. Mrs A wrote to the Councils to complain about the delay in April 2013. In June the City Council responded. It said while the City Council had approved the schedule of works submitted by Mrs A's agent in September 2012, and would have approved a grant once she received the costing, Mrs A had "*in the meantime*" requested an electronically controlled locking front door system, security locks, an intercom system, and changes to the ramp to accommodate an electric wheelchair. The City Council said its grants officer had not known about the changes and had to request a fresh recommendation from the OT which she did not receive until March 2013. It said the grants officer could not approve the intercom or the bolting system under the DFG legislation.
27. The City Council referred to a site meeting on 1 May where, it said, Mrs A had now asked for the ramp to be repositioned. The City Council said the new design entirely met Mrs A's needs and added "*if you opt for an alternative ramp, I will*

need your written confirmation that you will not request a grant for a ramp to the rear garden in the future". The City Council wrote approving a grant on 13 June.

28. In October 2013 the City Council wrote again to Mrs A noting that she had not yet returned the paperwork to enable the grant works to proceed. It added that a "policy change" meant that a modular ramp could now be provided on a permanent basis without a DFG. Mrs A responded that she was delighted that the ramp which she requested in June 2012 could now be provided. She added that she did not understand why she would have to pay for the door locking system.
29. The Council also explained to Mrs A that she could not decide to refuse some items now and then opt to include them in a later application. On that basis Mrs A refused the works to widen internal doors, saying that she would fund that work herself in the future if it was needed.

Breakdown of the stair lift

30. Mrs A said that hospital OTs inspected the stair lift after she had further surgery on her knee and told Mrs A she should not use it because she could not maintain a straight leg (which she had by virtue of the orthotic knee extension splint she was wearing). Mrs A said she could not manage without showering so against advice she stood on the footplate of the stair lift to go upstairs. She said the stair lift broke and she was stranded. She said she discovered that the stair lift which had been installed was a second-hand bariatric stair lift (so had a larger than average seat). Mrs A said the Councils refused to pay for repairs so her father paid £1390 for a new stair lift which both she and Mr A could use.
31. Mrs A asked the City Council why it had paid for the cheaper stair lift as it did not meet her needs. The housing services manager emailed Mrs A explaining that she had been in contact with the stair lift company who advised that despite repeated reminders, Mrs A had not chosen to take up a servicing agreement therefore they would charge for any call out and repairs. The manager also explained that the original stair lift quotations were for the same specification.
32. Mrs A complained to the Ombudsman shortly before she went into hospital for further surgery in December 2013. She complained about the stair lift, the bathroom adaptations and the ramp. She said the ramp design was ridiculous and out of proportion to the request she had made for a small modular ramp. She said the councils had failed to liaise with each other. She said she was shocked to be told that if she decided not to proceed with some grant works, she could not ask for them later.
33. Very sadly Mrs A died in hospital.

The City Council's response

34. The City Council says that Mrs A chose to use an agent who was known to her (rather than the City Council's in-house agency). It says her agent included many items in the bathroom specification that were not eligible for mandatory grant aid as they did not facilitate access around the property. It says the grants officer looked at each item individually and allowed a reasonable cost for those items that were required but were more highly specified than would reasonably be allowed for as grant eligible items.
35. The City Council disputes Mrs A's allegation that officers refused to discuss the details of the application. As evidence it has provided copies of the email correspondence between the grants officer and Mrs A and her agent, specifically about the eligible items and the reasons for the decisions that were made.

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36. The City Council explains why it could not delay the inclusion of the door widening scheme to a later application. It says *“It is not an appropriate use of DFG funds to allow applicants to pick and choose the adaptations they wish to have installed with a view to including the remainder in subsequent applications. The Council is required to ensure the limited DFG budget is fairly distributed and applicants only receive the maximum available grant of £30,000 per grant application. Occasions have arisen where the cost of the work exceeds the maximum grant and therefore a second application for adaptations that have been identified as current need and should be included as part of the scheme would enable the applicant to circumvent the maximum grant level”*.
37. The City Council says it was only in 2013 that it was able to start offering modular ramps instead of permanent concrete ramps, as a result of funding provided by the county-wide home improvement agency. It says it is wrong to say the design of the concrete ramp was *“ridiculous”*. It says the ramp had to provide wheelchair access to both the front and the rear of the house and so had to be designed to go across the front of the house. It says when this scheme was presented to Mrs A in September 2012 she objected because it did not allow for access to take the rubbish bins from the front to the back of the house. The City Council explains that despite the presentation of other schemes, it never received consent to proceed and so no grant application was approved.
38. In response to my draft decision, and in particular to the question of access to remove the rubbish bins, Mrs X says, *“Where the ramp crossed the little gate, there would be a step down into the back garden. This may have only been a few inches drop but it was too much for (Mr A) to get out bins, bring the lawn mower to the front, etc. This was of serious concern to (Mr A) who does all he can to maintain the house and garden through considerable pain.”* Mrs X raises this as one example of the way in which she says Mrs A’s genuine concerns about the viability of the ramp designs for Mr and Mrs A’s needs was minimised by the Council.
39. Also in response to my draft decision, the Council says *“Modular ramps were not available as a permanent solution until October 2013. This option came about once a budget was provided and it was agreed that they would be robust enough for long term use”*.

Analysis

40. There is no evidence of fault in the way the grant was approved for the stair lift. There is some evidence that the lift was not properly maintained and it was not the City Council’s fault that it broke down.
41. There is no evidence of fault on the part of the City Council in the grant approval for the bathroom adaptations. Mrs A was understandably disappointed and upset that the City Council did not fund the whole amount of the scheme which was put forward. However, it was the City Council’s duty to consider which items were *“necessary and appropriate”* to meet Mrs A’s needs as well as *“reasonable and practicable”*. It was not the grants officer’s role simply to agree the items put forward in the specification. When it was discovered that the flooring was recommended by the OT rather than a request by Mrs A, the City Council allowed it. So the City Council did take into consideration Mrs A’s representations and amend the approved amount, although not to the degree Mrs A requested.
42. The problems with the ramp took too long to resolve. It should not have taken the County and City Councils so long to reach an agreement with Mrs A over what was required, only to reach a situation where the modular ramp she requested did

in fact become available 13 months later. In the meantime Mrs A was unable to get out of her house unless she was carried by her elderly father. She endured long frustrating months of debate about door widening and ramp positioning. I am unclear why the requested ramp could not be provided in the first place. The Council says “*Modular ramps were not available as a permanent solution*” but it is clear that at the point Mrs A requested a ramp, in February 2012, she was asking for the *loan* of a *temporary* ramp as she was about to have ankle surgery and would not be able to weight-bear immediately afterwards. “*Delivering Housing Adaptations for disabled people – A good practice guide*” specifically recommends that authorities ask themselves, “*What scope exists within our system for making an interim response in the interests of the service user in advance of a full service response against assessed need?*” The Council did not consider that question properly, and that was fault on the part of the Council which caused significant distress and injustice to Mrs A.

43. It was not fault on the part of the City Council to explain to Mrs A that she could not defer inclusion of necessary adaptations to later schemes.
44. I have not seen evidence that the Councils failed to liaise with each other except in respect of the provision of the ramp.

Recommended action

45. The City Council should apologise to Mrs A’s family and pay £1000 to acknowledge the distress caused by its part in the delay of providing the requested ramp.

Final decision

46. There was fault which caused injustice.

Investigator’s decision on behalf of the Ombudsman