

13 October 2014

Complaint reference:
14 000 852

Complaint against:
Forest Heath District Council

The Ombudsman's final decision

Summary: The Council took adequate steps to help Mr X complete his application for a Disabled Facilities Grant. The application was not delayed by the Council's fault and it did not place unfair restrictions on Mr X's communications about the matter. But the Council was at fault for failing to give Mr X the assistance he needed to make a complaint.

The complaint

1. The complainant, whom I shall refer to as Mr X, complained the Council:
 - delayed his application for a Disabled Facilities Grant (DFG) to fund adaptations to his bathroom;
 - did not make reasonable adjustments to its procedures to allow him to pursue complaints about the Council's handling of the DFG application;
 - unfairly restricted his communications with the Council without notice or right of appeal.

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. 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 26A(1)*)

How I considered this complaint

3. I considered the papers Mr X submitted and discussed the complaint with him by telephone.
4. I considered the Council's response to the complaint and the supporting documents it supplied.
5. I gave Mr X and the Council an opportunity to consider my provisional view of the complaint and took their further comments into account before I reached a final decision.

What I found

Disabled Facilities Grant (DFG) application

6. Disabled Facilities Grants (DFG) are provided under the terms of the Housing Grants, Construction and Regeneration Act 1996. Councils have a statutory duty to provide grant aid to disabled people for a range of adaptations.

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7. Grants are only approved if a council accepts the adaptations are necessary and appropriate to meet the needs of a disabled person. The assessment of need and recommended adaptations are usually supplied by an occupational therapist.
 8. In addition to a completed grant application form applicants must submit details of the works and estimated costs. Applicants can seek advice and assistance from Housing Improvement Agency (HIA). In addition to advising on the application process HIA's can offer technical advice, supply plans, and arrange contractor quotations.
 9. Councils must determine DFG applications within 6 months of receiving a completed application. Works should normally be completed within twelve months of the grant being approved.
 10. Mr X was severely disabled. An Occupational Therapist determined he needed adaptations to his bathroom to enable him to manage his personal hygiene without carer assistance. The Occupational Therapist submitted her report to the Council in June 2012.
 11. In accordance with its normal practice the Council referred the report to a local HIA to assist Mr X with his DFG application. The HIA was contracted to the Council to supply those services and so was acting on its behalf.
 12. Mr X experienced difficulties working with the HIA. The Council contacted him to discuss the DFG process and encouraged the HIA to complete the application as soon as possible. The HIA continued to discuss the scheme with Mr X and completed a schedule of works at the end of November 2012. The plans incorporated Mr X's preference for an external waste pipe, met the occupational therapists recommendations, and were agreed by the Council.
 13. Mr X remained unhappy with the HIA and did not agree the proposed schedule of works. Concerned the application was not progressing the Council wrote to Mr X in January 2013 and suggested a meeting of all parties to discuss the schedule. The Council explained it was otherwise open to Mr X to proceed with his application without the HIA's support.
 14. Mr X complained about the Council's letter. The Council encouraged Mr X to continue with his DFG application while it dealt with his complaint. Noting Mr X's preference for a single point of contact, the Council later nominated an officer to assist Mr X with his application. Mr X did not accept the proposal until late August. By then his DFG application had expired.
 15. The Council's officer met Mr X in September 2013. She helped him to complete a new application form and discussed his concerns about the proposed schedule of works. The officer twice revised the schedule following consultation with the Occupational Therapist and Building Control and after further discussion with Mr X.
 16. By December the officer the officer had prepared a schedule of works that accommodated some of Mr X's preferences. The Council explained that other works, including additional tiling, were not considered necessary to meet his assessed needs and so could not be funded under the grant. But it included those works in the schedule to save Mr X the trouble of arranging them separately.
 17. Mr O refused to sign the schedule because he did not understand it. The Council reissued the schedule with an explanatory note and offered to meet Mr X to talk through any concerns. Mr X telephoned the Council in early January and was told only the nominated officer would discuss the DFG application with him. Mr X

complained about the handling of his calls and did not contact the officer to discuss his application further until the end of March.

18. The officer further considered Mr X's request for additional tiling and again discussed the matter with the Occupational Therapist. When she met Mr X at his home she explained the additional tiling could not be included without a further occupational therapy assessment. Mr X declined the officers offer to explain the remaining proposed works and signed the schedule.
19. The Council asked two contractors to quote for the works. They visited Mr X's home and he confirmed he was happy for either to complete the adaptations to his bathroom. Mr X arranged finance to cover the works not covered by the DFG grant and the Council approved his application shortly afterwards.
20. The adaptations to Mr X's bathroom were due to be completed in August 2014. But when the contractor emailed the Council expressing concern about its communications with Mr X he decided he did not want the company to do the works. The adaptations to Mr X's bathroom remain outstanding.

Conclusions

21. I do not find Mr X's DFG application was delayed as a result of fault by the Council.
22. The Council could not determine the application until it received an agreed schedule of works and estimated costs for the adaptations. And it could not fund works that were not necessary to meet Mr X's needs as determined by the Occupational Therapist.
23. Mr X had some initial difficulties agreeing a schedule with the HIA in 2012. But I am satisfied the Council made adequate efforts to resolve the matter.
24. When Mr X was unable to progress the application with support from the HIA the Council agreed to help him. I am satisfied it then took adequate and timely action to assist Mr X and, so far as possible, to accommodate his wishes in respect of the adaptations. Once it had all the necessary information the Council approved the DFG application without delay. So I do not find it was at fault.
25. The adaptations to Mr X's home should have been completed in August. I note Mr X's reasons for refusing to allow the contractor to do the works. But I do not find the continuing delay in completing the adaptations is the result of fault by the Council.

Request for reasonable adjustments

26. Councils must make reasonable adjustments to overcome barriers to disabled people using their services (*Equalities Act 2010*).
27. Mr X wanted to complain about a letter he received from the Council in January 2013. Because of his disability, Mr X found it difficult to submit his complaint in writing. He asked the Council to listen to his oral complaint and send him a written summary for agreement. The Council did not record or respond to his request.
28. The Council later acknowledged it had failed to consider Mr X's request. And that, in consequence, it had misinterpreted his complaint and caused him the avoidable expense of employing someone to put his complaint in writing.
29. Mr X made a similar request for help when he made a further complaint in January 2014. When he discussed the matter with an officer by telephone Mr X was told to contact the Citizens Advice Bureau. But within a few days the Council offered to refer Mr X's to an advocacy service that would be able to provide help he needed free of charge.

Conclusions

30. The Council's failure to respond to Mr X's request for assistance with his complaint in 2013 was fault. Mr X incurred avoidable administration costs, inconvenience and frustration as a result.
31. The Council's telephone response to Mr X's request for assistance in January 2014 was inadequate. But it promptly offered to arrange appropriate advocacy services to help Mr X and I do not find he was disadvantaged.

Restrictions on Mr X's communication with the Council

32. The Council wrote to Mr X about his DFG application in January 2014. It advised Mr X that he should only contact the nominated case officer about his application and that other officers had been instructed not to discuss the matter with him. The letter was delivered to Mr X by hand.
33. When Mr X called the Council later that month officers refused to discuss the application with him and terminated his calls in accordance with the Council's instructions.

Conclusions

34. The Council was entitled to manage its communications with Mr X. The restrictions placed on his communication applied only to his DFG application and did not prevent him making complaints or talking to officers about other matters.
35. The Council told Mr X only the nominated officer would discuss the application with him. The intention was to manage the DFG process. Mr X's communications were not restricted under the Council's policy for dealing with unreasonably persistent complainants and rights of review and appeal did not apply.
36. Mr X was aware of the restrictions before he telephoned the Council later in January. It remained open to him to discuss and progress his DFG application with the nominated officer. So I do not conclude Mr X was caused serious injustice when other officers terminated his telephone calls. Nor do I find the application process was delayed by the Council's decision.
37. I find no fault with the Council's actions here.

Agreed action

38. The Council agreed to:
 - apologise to Mr X and pay him £150 to cover his administration costs and to acknowledge the frustration and trouble he was caused by its fault;
 - review its procedures for recording and responding to requests for reasonable adjustments to help disabled people pursue complaints.

Final decision

39. Mr X's application for a Disabled Facilities Grant was not delayed as a result of fault by the Council. And it did not place unfair restrictions on Mr X's communications that hindered its completion.
40. But the Council's failure to give Mr X the help he needed to pursue his complaint was fault. The agreed action is a satisfactory way to resolve the injustice he was caused.

Investigator's decision on behalf of the Ombudsman