

Slough Borough Council

Report To:	Cabinet
Date:	21 November 2022
Subject:	Public Interest Report – Disabled Facilities Grants
Lead Member:	Lead Member for Social Care and Public Health
Chief Officer:	Executive Director People – Adults Monitoring Officer
Contact Officer:	Andre Ansah – Group Manager – People (Adults) Short term services Sarah Wilson – Principal Lawyer
Ward(s):	Not disclosed to protect anonymity of complainant
Key Decision:	NO
Exempt:	NO
Decision Subject To Call In:	YES
Appendices:	Appendix 1 – LGSCO Public Interest Report

1. Summary and Recommendations

- 1.1 This report sets out the findings of the Local Government and Social Care Ombudsman (LGSCO) in relation to the Council's policies and procedures for determining and awarding disabled facilities grants.

Recommendations:

Cabinet is recommended to:

1. Note the Public Interest Report;
2. Agree the lessons learned and actions to be taken in response;
3. Request that the Customer and Community Scrutiny Panel include the public interest report in its planned review of the Council's complaints procedure against the LGSCO's best practice guidance and report back with recommendations.

Reason:

Learning from complaints is an important aspect of the Council's recovery and improvement journey and the public interest report has been used as a basis for reviewing the whole complaints system. The action plan will address the findings in the public interest report, however the recommended work by the Scrutiny Panel should be much more wide ranging.

Commissioner Review

The Commissioners have reviewed this report.

2. Report

Introductory paragraph

2.1 The Council's Corporate Plan 2022-2025 sets out four strategic priorities. This includes ensuring the Council delivers best value for taxpayers and service users and that there is an environment that helps residents live more independent, healthier and safer lives. Disabled facilities grants are a key way of allowing residents to stay in their own homes and allow the Council to support independence in a cost effective manner.

Options considered

The Council is statutorily obligated to formally consider a public interest report at a member level meeting and to formally respond to the LGSCO explaining the steps it has taken and will take in response to the recommendations in the report.

The report could have been reported to full Council or to Audit and Corporate Governance Committee as part of its assurance remit. However, as the issues raised relate to a lack of effective policy and this is the responsibility of Cabinet, it was deemed appropriate to report this to Cabinet.

Background

2.1 A summary of the background to the complaint are contained in the public interest report. The resident has a right to anonymity and therefore has been referred to as "resident" throughout this report. The resident complained to the LGSCO following a delay in the Council determining the resident's application for a disabled facilities grant. The delay arose mainly due to a failure to progress the application, following an occupational therapist assessment in May 2021. The DFG application was only approved at the end of May 2022, 12 months after this assessment. There was also a failure to communicate clearly with the resident. Finally the process for determining DFGs was set out in a policy and procedures which does not appear to have been approved at a member level.

2.2 Prior to submission of the LGSCO complaint, the Council has responded to the resident in accordance with its own internal complaints procedure. There was a missed opportunity here to explain the policy background and any reason why the procedures had been changed without reference to members. It appears that this may have been in part due to pressure on the system during the Covid 19 pandemic, as well as changes implemented when the application team transferred to the Adults directorate.

2.3 A public interest report is a relatively rare step for the LGSCO to take. The power comes from s.30(1) of the Local Government Act 1974, which states that following an investigation, the ombudsman may prepare a report of the results of the investigation and send a copy to the persons concerned. The report should not normally name or identify any individual, including the complainant or staff members. A public interest report is made if the LGSCO believes that it is in the public interest to highlight a particular issue or problem because of the failures of the authority and the significant impact this has caused. The Council is required to bring this matter to the attention of the local press and residents by publishing two public announcements in local newspapers or newspaper websites, must make the report available free of charge, must report it to elected members and must formally report back to the LGSCO on its intended course of action.

2.4 The LGSCO sent the Council as draft of the public interest report to the Council on 2 August 2022. It confirmed it was minded to issue the report due to the significant fault and injustice caused to the complainant and a concern that there was a systemic problem with wider learning. The Council's chief executive responded to the draft report on 12 August 2022 making minor comments on the proposed recommendations, whilst accepting the findings. The letter referred to the immediate lessons learned, including:

- The Monitoring Officer to have oversight of all complaints to the LGSCO;
- A need for an enhanced reporting of complaints data;
- A need to ensure all new and amended policies are approved at elected member level;
- Consideration as to the role of scrutiny in reviewing the effectiveness of the complaints process;
- A need for a comprehensive performance management dataset to ensure effective management of performance against standards and targets;
- The need for effective partnership working.

Recommended Action

2.5 The detail of the findings are contained in the public interest report which is appended at Appendix 1. The LGSCO has recommended the following action to remedy the injustice caused:

- Apologise to the complainant and pay £250 for avoidable time and trouble in pursuing the matter;
- Pay the complainant £3,300 to recognise the distress and difficulties experienced as a result of the 11 month delay in accepting the DFG application;
- Immediately end the DFG Minor works waiting list and process applications for all those on the waiting list in line with statutory timeframes;
- Complete its review of the DFG policy, taking account of new non-statutory guidance "Disabled Facilities Grant (DFG) deliver: Guidance for local authorities in England". The Council should ensure any future policies do not include any local priority systems intended to, or with the effect of, managing demand or creating waiting lists beyond the statutory timescales. It should also ensure any future policies are approved by Cabinet, having been through legal and financial officer clearance; and
- Review its arrangements with local housing authorities to ensure that works to these properties can be undertaken in a cost effective and timely manner.

2.6 The Council fully accepts the recommendations and will implement them. A separate cabinet report addresses the review of the policy and arrangements to be put in place with local housing authorities.

Lessons learned

Oversight of complaints by Monitoring Officer

2.7 The Monitoring Officer is legally responsible for reporting findings of maladministration to elected members. However, previously in the Council there has been limited involvement of the Monitoring Officer in the complaints process, including in responding to the LGSCO. Since receipt of the draft public interest report this has changed and the Monitoring Officer now has a more active role in LGSCO complaints. This has included reviewing all correspondence between the Council and the LGSCO and speaking to departments about learning opportunities.

Reporting of complaints data

2.8 The corporate complaints team has agreed to enhance its reporting to the corporate leadership team and to member level meetings to ensure that learning and themes are captured, and that complaints data is used to deliver improvements to services. By capturing case studies, this data can be used for training purposes to help officers understand the impact of their decisions and to raise risks where they are aware that policies and procedures are not being adhered to. Since receipt of the draft report, a complaints analysis has been reported to the corporate leadership team and a more in-depth annual complaints report has been reported to the Audit and Corporate Governance Committee. Complaints reports will be presented to the monthly Assurance CLT. This will allow senior officers to consider whether complaints are being investigated properly and that when the Council makes a mistake it takes steps to put things right.

Policy approval

2.9 A reminder has been given to executive and associate directors of the need to have in place robust policies and for these to be approved at a member level. Whilst there is no legal requirement to have a written policy for all service areas, the benefit of having one is that there are clear and transparent processes in place, consistency in decision-making and clarity in relation to the use of the Council's powers. Policies should be available to the public on the Council's website. This allows the public to understand how decisions are made and helps ensure consistent decision-making. All new and amended policies should be approved by elected members. This process will ensure that legal and financial advice is given and that the Council can demonstrate that it is complying with its specific statutory requirements, as well as its overarching duties, including its duties under the Equality Act 2010. Policies should also be regularly reviewed to ensure they comply with the relevant legal framework and take account of best practice guidance.

Scrutiny review

2.10 The Council is undertaking a review of its scrutiny function. This includes consideration to an increased number of task and finish groups to undertake more in-depth reviews to inform policy changes. The People scrutiny panel has decided to set up a task and finish group to review the Council's complaints procedures, including considering them against the LGSCO's "Principles of Good Administration" guidance and best practice from other local authorities.

Performance data

2.11 The Council is currently reviewing its performance data reporting to ensure that data is provided at a departmental, corporate and member level. This will help ensure that the Council can effectively measure its performance against its own standards and targets and identify where resources should be targeted.

Effective partnership working

2.12 Whilst the funding for DFGs, outside of the Housing Revenue Account, is from the Better Care Fund, there is a difference between the ability of social housing landlords, private landlords and owner occupiers in being able to facilitate the works. The Council does not currently have any written agreements with its main housing associations and many DFGs are for social housing tenants. The Council will prioritise putting in place agreements to ensure that DFGs can be progressed expediently for these tenants, in particular in relation to financial assessment processes and who should take the lead in arranging / delivery the works.

3. Implications of the Recommendation

3.2 *Legal implications*

3.2.1 Section 30(1) of the Local Government Act 1974 states that if a local commissioner completes an investigation of a matter under this Part of the Act, he shall prepare a report of the results of the investigation and send a copy to each of the persons concerned. The report is known as a public interest report and it will not normally name or identify any person. A public interest report will be issued if the LGSCO believes it is in the public interest to highlight particular issues or problems because of what the Council got wrong and if the impact on the person who reported the issue to the LGSCO was significant.

3.2.2 Following publication of the report by the LGSCO, the Council has three months to formally consider the report and any recommendations. Once the report is issued, the Council must place two public announcements in the local newspapers and/or newspaper websites within two weeks, make the report available free of charge at its offices, publish a copy on its website and consider the report at an appropriate elected member meeting.

3.3 *Risk management implications*

3.3.1 Consideration and analysis of complaints data is an essential component of effective risk management. The Council should produce regular reports on complaints data at a senior officer and member level. The Audit and Corporate Governance Committee have recently received the annual complaints report, which reports on all LGSCO complaints and also provides data and information on internal complaints. The Council needs to ensure it captures learning from these complaints, including those that are not referred to the LGSCO or are not upheld by the LGSCO, as the detail of these can identify improvements in communication and responsiveness. Many of these issues are relatively easy to address. For instance provision of better information on the Council's website or changing to wording of correspondence to make it easier to understand the Council's decision.

3.4 *Environmental implications*

3.4.1 There are no specific environmental implications from this report.

3.5 *Equality implications*

3.5.1 An equality impact assessment has not been completed for this matter. However, the Council has considered the equality implications of its new housing assistance policy, which is separately reported. The Council should also consider any equality issues when reviewing its complaints data. Certain protected groups are more likely to need to access Council services and will therefore be more impacted by failures in service delivery. In order to have due regard to the need to foster good relations between people from different protected groups and to advance equality of opportunity, it is essential that the Council has good data to inform its decisions.

4. Background Papers

None