

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint about
Slough Borough Council
(reference number: 21 017 018)**

13 September 2022

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

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

Ms X The complainant

Report summary

Adult social care

Ms X complained the Council has delayed in providing a disabled facilities grant (DFG) for a stairlift at her property. As a result Ms X has been unable to access the first floor of her property independently for over a year.

Finding

Fault causing injustice and recommendations made.

Recommendations

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

To remedy the injustice caused we recommend the Council:

- apologise to Ms X and pay her £250 for her avoidable time and trouble in pursuing this matter;
- pay Ms X £3,300 to recognise the distress and difficulties she experienced as a result of the 11-month delay in accepting a DFG application;
- immediately end the DFG Minor works waiting list and process applications for all those on the waiting list in line with the statutory timeframes;
- complete its review of the DFG policy, taking account of new non-statutory guidance "Disabled Facilities Grant (DFG) delivery: 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 times 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 associations to ensure that works to these properties can be undertaken in a cost effective and timely manner.

The complaint

1. Ms X complained the Council has delayed in providing a disabled facilities grant for a stairlift at her property. As a result, Ms X has been unable to access the first floor of her property independently for over a year.

Legal and administrative background

2. We investigate complaints about ‘maladministration’ and ‘service failure’. In this report, we have used the word ‘fault’ to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as ‘injustice’. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

How we considered this complaint

3. We produced this report after examining relevant documents and speaking to the complainant.
4. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

Disabled Facilities Grants

5. Disabled Facilities Grants (DFG) are provided under the terms of the Housing Grants, Construction and Regeneration Act 1996. Councils have a statutory duty to give grant aid to disabled people for certain adaptations. Before approving a grant, a council must be satisfied the work is necessary, meets the disabled person’s needs, and is reasonable and practicable.
6. A council should decide a grant application as soon as reasonably practicable. This must be within six months of the application. If a council refuses a grant, it must explain why. Once the work is complete, the council must pay the grant in full within 12 months of the application date.
7. In February 2015, the government withdrew its guidance “Delivering Housing Adaptations for Disabled People: A Good Practice Guide”. It replaced it with “Home adaptations for disabled people: a detailed guide to related legislation, guidance and good practice”, published by the Homes Adaptations Consortium in 2013.
8. This non-statutory guidance stresses the importance of close links between housing and social care councils to make sure people receive the most suitable help. The guidance says that even where the same council delivers these services, it is important to have joint processes and agreements to give an effective service. The guidance also says:

‘Local priority systems should not be used to manage demand and create waiting times beyond the statutory timescales.’

What happened here

9. Ms X lives alone and is unable to access the upstairs of her property, where her bedroom and bathroom are located, unaided. She has a package of care and relies on carers for her personal care.
10. An occupational therapist (OT) assessed Ms X's needs and in May 2021 made a referral to the Council, recommending installing a stairlift at Ms X's property. The Council wrote to Ms X on 21 May 2021 acknowledging the referral from the OT and noting Ms X wanted to apply for a DFG for the cost of installing the stairlift.
11. The Council stated that demand for DFGs was extremely high and to ensure it processed the grants in a fair and equitable manner it had set up a points-based waiting list. The OT had given Ms X's case 39 priority points and the Council confirmed she was currently number 36 on the waiting list. The Council could not say how long it would take to process the outstanding backlog of cases but told Ms X it was making every effort to reduce the delay.
12. The Council advised Ms X an officer would contact her in due course to arrange a financial assessment of her income and savings. It explained that once this had been completed there may be a short delay in processing her application while it carried out checks. So that Ms X was not held on the waiting list only to discover at the time of the financial assessment that she was not entitled to a grant the Council asked Ms X to provide information to allow it to carry out a preliminary financial assessment.
13. Ms X says she contacted the Council several times to find out when the stairlift would be installed, and the response each time was that she was on the waiting list. In October 2021 Ms X made a formal complaint about the delay.
14. The Council responded on 10 November 2021 and advised Ms X was now position 24 of the waiting list. When she reached the top, an officer would contact her to complete the paperwork.
15. Ms X was not satisfied by the Council's response and asked us to investigate. She says the delay has impacted on her physical and mental wellbeing and she feels it has hindered her recovery post COVID-19. As Ms X is unable to access the upstairs of her property, she sleeps in her living room and uses a commode. She relies on carers to help her with a strip wash and is only able to go upstairs, with support from her carer, to have a bath once a week. Ms X does not feel safe accessing the upstairs of her house without a carer.
16. Ms X says the lack of dignity and privacy she experiences is exacerbated by the lay out of her property as her front door opens directly into her living room where she sleeps and uses the commode. She says the delay in dealing with her request for a stairlift is unfair and has prolonged the length of time she has experienced these demeaning conditions. Ms X says she dreams of having a hot bath in privacy before going to bed upstairs in her bedroom and being able to use the toilet like a human being. Ms X wanted a firm date for the installation of the stairlift so that she could have her life back.
17. In March 2022 the Council informed us Ms X was position 19 on the waiting list and an officer would contact her in April 2022 to complete the necessary paperwork. According to the Council's records, an officer visited Ms X on 7 April 2022 to complete the grant paperwork. It then obtained quotes and consent from Ms X's landlord to complete the work and approved the DFG on 26 May 2022. The Council says the installation was scheduled for 12 July 2022.

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18. In response to our enquiries about the operation of the waiting list, the Council states it does not have any information on when the points-based system was introduced. It confirmed there are currently 35 people on the DFG Minor works waiting list. The Council states priority on the waiting list is determined by the date the referral is received and the OT points, scored out of a maximum of 48 points.
 19. The Council states it can meet the statutory timescales for processing DFG applications as the dates of the referral and the OT points operate in conjunction with each other which allows applicants to reach the top of the waiting list in a more suitable timescale. It states it automatically adds two points each month to applicants' cases on the waiting list to ensure the waiting list is managed fairly.
 20. The Council has not provided a copy of its current policy on DFGs or the points-based waiting list. It states a new policy is being drafted.
 21. Having been notified we intend to issue a public report, the Council has taken action to learn wider lessons from this case and improve its complaint handling processes. The Council's monitoring officer will now have oversight of all complaints to us and there will be enhanced reporting of complaints data to the corporate leadership team and members. The Council has also reminded executive and associate directors of the need for robust policies and for these to be approved at member level. And it is finalising a review of its scrutiny function. These service improvements are all to be welcomed.

Conclusions

22. The Council acknowledged Ms X wanted to apply for a DFG in May 2021, but would not accept an application until April 2022, almost a year later. It is of course to be welcomed that the application was then assessed, approved and arrangements for the installation made within three months. But the initial delay of almost a year in accepting the application is unacceptable and is fault.
23. The Council's operation of a waiting list to submit applications for DFGs is at odds with the guidance referred to above which prohibits the use of priority systems to manage demand and is a form of gatekeeping. The Council's DFG Minor works waiting list appears to be an attempt to manage a backlog and circumvent the requirement to assess applications within the six-month time limit. This is clearly not appropriate.
24. It is of concern that the Council has not provided a copy of its current policy on DFGs or on the points-based waiting list, and that this information is not available on its website. The details of how priority points are calculated are unclear as is the length of time it will take an applicant to get to the top of the waiting list. It is also concerning that the Council cannot confirm when or how this points-based system was introduced. The concerns about gatekeeping are exacerbated by such a lack of transparency surrounding the waiting list.
25. There will have been and are still a significant number of people on the waiting list, and the Council should take immediate action to address this.
26. We note the Council is currently reviewing its policy and drafting a new DFG policy. We would not expect a waiting list of this nature to form part of the Council's revised policy.
27. But for the delay in accepting Ms X's application for a DFG she would have been able to access the first floor of her property independently and regain her privacy and independence almost a year sooner.

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28. We have published guidance to explain how we calculate remedies for people who have suffered injustice as a result of fault by a council. Our primary aim is to put people back in the position they would have been in if the fault by the Council had not occurred.
29. Where a complainant has been deprived of modifications which would have improved their daily life, we would usually recommend a remedy payment in the range of £150 to £350 a month. In determining the appropriate figure, we consider the impact on the complainant and take account of factors such as:
- the extent of the adaptations needed;
 - the particular circumstances of the person requiring adaptations; and
 - the adequacy of current or interim arrangements.
30. In this instance we consider a payment of £300 a month is appropriate.

Recommendations

To remedy the injustice caused we recommend the Council:

- apologise to Ms X and pay her £250 for her avoidable time and trouble in pursuing this matter;
 - pay Ms X £3,300 to recognise the distress and difficulties she experienced as a result of the 11-month delay in accepting a DFG application;
 - immediately end the DFG Minor works waiting list and process applications for all those on the waiting list in line with the statutory timeframes;
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 - review its arrangements with local housing associations to ensure that works undertaken to these properties can be undertaken in a cost effective and timely manner.
31. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Decision

32. The Council's operation of a waiting list to submit applications for DFGs is a form of gatekeeping and is fault. This fault has caused Ms X an injustice.