

Committee: Council

Date:

Title: Complaint upheld by the Local Government
Ombudsman

Tuesday, 20 July
2021

**Report
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Summary

1. The Local Government and Social Care Ombudsman (LGSCO) has upheld a complaint relating to a disabled facilities grant application.
2. In these circumstances, the Council's Monitoring Officer, has an obligation to report the findings to Council where a financial recompense has been advised by the LGSCO.
3. This report summarises the complaint, acknowledges that there were shortcomings in relation to working practices and sets out the actions taken in response to the findings.

Recommendations

4. To note the actions taken by officers in response to the findings of the LGSCO.

Financial Implications

5. The total compensation (£7,000) awarded by the LGSCO has been paid to the complainant.

Background Papers

6. The LGSCO decision letter is appended to this report.

Situation

7. The complaint centred around the Council having failed to sufficiently monitor the increasing estimated costs of a proposed extension and keep these under discussion with Essex County Council who agreed to contribute to the costs. As such it took until September 2019 (almost three years) before the Council estimated the costs would be £226,000 (or more), which would be too expensive for both Councils.
8. The complainant stated that if the Council had realised this earlier, all involved could have started the process of pursuing an alternative earlier, in this case

building a new fully adapted new build, which would have resulted in the family being able to move into more suitable accommodation earlier.

9. It is noted from the Investigator's analysis of the case that:

"It is clear from the records that the case was overall complex, particularly in terms of the design of the extension. However, the Council has accepted it failed to monitor the escalating costs of the extension, and how these would be funded, between 2016 and September 2019. This was referred to in one of the records as just having been 'plucking figures out of the air'. The Council failed to properly involve architects in any estimates until September 2019, at which time the architect concluded it would cost at least £226,000.

It also failed to involve the Council's Procurement Department at a much earlier stage. Once the Procurement Department became involved, things became more formalised and an architect provided a sufficiently detailed estimate of the costs, which showed the costs had significantly gone beyond any amount both Councils were willing to pay.

As a result, there has been an unreasonable delay in discarding the extension as a viable option and, as such, in Mrs C and her family moving into a new build property that will be built to the exact specifications needed for her. It also resulted in Mrs C experiencing distress and uncertainty that should have been avoided."

10. To put matters right the Council agreed that within a month of the Ombudsman's final decision it would:

- a. Provide an apology to the complaint for the faults identified and the distress caused to the complaint and the family
- b. Pay £7,000 to remedy the injustice for the resulting distress and uncertainty, as well as the significant delay in moving the complainant and their family from the temporary bungalow where they have been staying, into a fully adapted newly built property.
- c. Share the lessons learned with all officers and teams involved with Disability Facility Grants and Adaptations.

11. The lessons learnt have been documented and shared with the relevant officers involved in such cases. Key points from within that include:

- a. Complex DFG cases involving major works need to be handled by persons with an appropriate level of skills and experience. Should UDC not have the internal resource at the time of referral, an external provider should be engaged.
- b. Care should be taken to appropriately specify the works at an early stage in each case to provide a sound basis for assessing the cost. All relevant parties should be engaged in a co-design exercise to avoid the need for material revisions to the specification. Consideration should be given to seeking the advice of a Quantity Surveyor in particularly complex proposals. If the necessary adaptations to an existing home would be prohibitively expensive, exceeding the funding available, alternative ways of addressing a household's complex needs should be considered. Once a robust estimate of the overall cost has been

obtained, this should be communicated to key stakeholders, and impacts on budgets and funding sources reviewed.

- c. Where the cost of works exceeds the threshold of £50K and the council is the party commissioning the works, the council's Procurement Procedure Rules require that the works be tendered, unless an exemption would be justified. Advice should be taken from Chelmsford City Council under the new Shared Service arrangements as a key milestone in an adaption works project plan. This will establish whether a contractor could be appointed from an existing Framework. Adequate provision should be included in the project plan for the procurement stage.

12. The Council has received a letter from the Investigator at the LGSCO that confirms they have recorded a compliance outcome of 'remedy complete and satisfied'.

Risk Analysis

13.

Risk	Likelihood	Impact	Mitigating actions
The organisation fails to learn from the key lessons identified from the LGSCO final decision.	1 – this report has been shared with the relevant officers and senior management	3 – there are financial and reputational risks arising from adverse findings by the LGSCO; in addition if the Council fails to follow good processes this has a detrimental effect on residents or customers	We share LGSCO findings with senior management. We ensure an action plan is drafted in response to specific findings and followed up. LGSCO annual review letters are shared with GAP.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.