

**Case 200600770: Castle Rock Edinvar Housing Association**

**Summary of Investigation**

***Category***

Housing Associations: Community care

***Overview***

The complaint concerned Castle Rock Edinvar Housing Association (the Association)'s failure to replace the complainant (Mrs C)'s daughter (Ms C)'s garden shed with a larger one in order to house her electric wheelchair.

***Specific complaints and conclusions***

The complaints which have been investigated are that:

- (a) the Association failed to replace Mrs C's daughter's garden shed with a larger one in order to house Ms C's electric wheelchair (*not upheld*); and
- (b) Mrs C's daughter was never told she would have to bear the cost herself (*not upheld*).

***Redress and recommendations***

The Ombudsman has no recommendations to make in this case.

## **Main Investigation Report**

### **Introduction**

1. On 12 June 2006 the Ombudsman received a complaint from Mrs C on behalf of her daughter (Ms C) who had had a massive stroke. She was unhappy with Castle Rock Edinvar Housing Association (the Association)'s decision not to replace her daughter's garden shed with a larger one in order to house her electric wheelchair. Mrs C alleged that her daughter was never told that she would have to bear the cost of this herself and she was aggrieved that the area around the shed had been left in an unfinished state.

2. The complaints from Mrs C which I have investigated are that:

- (a) the Association failed to replace Mrs C's daughter's garden shed with a larger one in order to house Ms C's electric wheelchair; and
- (b) Mrs C's daughter was never told she would have to bear the cost herself.

### **Investigation**

3. The investigation of this complaint involved obtaining and reading all relevant documentation, including correspondence between Mrs C and the Association. I have also had sight of a community Occupational Therapist (the OT)'s recommendation, dated 5 August 2005, for work to be carried out for Ms C; Communities Scotland Stage III Medical Adaptations Guidelines; an internal file note prepared on 11 April 2006 by the Project Officer responsible for medical adaptations; and an Appeals Committee Hearing decision dated 7 June 2006. On 29 September 2006 I made a written enquiry of the Association and I received their response on 11 October 2006.

4. Although I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mrs C and the Association were given an opportunity to comment on a draft of this report.

#### **(a) The Association failed to replace Mrs C's daughter's garden shed with a larger one in order to house Ms's electric wheelchair**

5. Mrs C said that at the age of 43 her daughter had a massive stroke and needed to use a powered wheelchair which she housed in her garden shed. On 5 August 2005 the OT requested the Association to arrange for their Clerk of Works to inspect the access at Ms C's front door because the paving slab, vent and threshold were at different heights and made from different materials. The OT said this created difficulties for Ms C in negotiating access.

6. Mrs C said that when the Clerk of Works and the contractor came to do the work, they all discussed what would be needed for Ms C and she said it was concluded that further works and a larger shed was required. Mrs C said that some work was carried out but then the Association said that her daughter would have to pay for a new shed herself. Mrs C considered this unreasonable, because, in the meantime, her daughter had bought a new power chair which no longer fitted in the old shed.

7. From the Project Officer's report (paragraph 2) I understand that on receipt of the OT's recommendation the Association wrote to Ms C on 18 August 2005 advising her that there were funds available to carry out the necessary work. I understand from the documentation that this funding was in line with Communities Scotland Stage 111 Medical Adaptations Guidelines and in order to be so, certain qualification criteria required to be met.

8. An instruction to complete the works was sent on 17 October 2005.

9. From the Project Officer's file note (paragraph 3), it appears that when she was chasing outstanding invoices at the end of the financial year, in early April 2006, she learned that as well as the work recommended by the OT, further work had been instructed verbally. She said that, 'We had re-laid the slabs to the front door, round the house to the shed and had added further slabs to give a turning circle and a wider path. We had fitted the threshold and also altered a grab rail at the front door'. She said it was also proposed that the existing shed be rotated so that the door was accessible from the path. But that in the meantime, Ms C had bought a new scooter/wheelchair which Mrs C said may not fit into the existing shed.

10. The Project Officer said she spoke to Mrs C by telephone on 5 April 2006 and she advised that the new wheelchair would be delivered the following week. She said Mrs C wanted to know when the new shed and power supply would be provided. The Project Officer then made enquiries of the OT as she was conscious of the fact that her referral (paragraph 5) did not cover all the work that was actually carried out and she was informed that since 1998 referrals were given for access into the property only. While Ms C was to receive a new wheelchair this was at her own behest. (Although she had applied to the Social Work Department for this, her application had been turned down as it was not considered that she met their criteria for need.) The OT confirmed that it was

not her intention to make any further referral for work additional to that already authorised. Because of this, and the funding restriction imposed by Communities Scotland's Guidelines (paragraph 3), on 11 April 2006 the Project Officer advised Mrs C that she could not instruct further work. She confirmed that the Association's Clerk of Works would ensure that the garden was left in a safe condition.

*(a) Conclusion*

11. It is clear from the above (paragraphs 7 to 10) that the Association carried out more work than the OT authorised. This seems to have been from a genuine desire to assist Ms C, although it is not clear how this was funded. Part way through these works, Ms C then bought a new power chair which no longer fitted the existing shed and, while it is likely that the Association would have repositioned the original shed (paragraph 9) at no cost to Ms C, they balked at the cost of providing a new one. I have seen no confirmation in any of the documents available to me to suggest that when the Clerk of Works originally visited the site to discuss the works (paragraph 6), he indicated that a new shed was required. Indeed, at that stage agreement was reached to rotate the existing shed. A new shed was not required until a new power chair had been purchased.

12. I cannot criticise the Association for their decision as they now had to deal with a set of circumstances they could not have envisaged. Ms C's garden has been left in a safe condition and despite Mrs C's view that they should have given her daughter an appropriate shed and finished the works that they started, I do not think they could have reasonably done so. All things being equal, her daughter would have had more works done than the OT recommended and at no cost, but, her daughter bought a new chair and this affected the Association's plans. This could not have been anticipated by the Association and accordingly, although I sympathise with the situation in which Ms C finds herself, I do not consider that this is as a consequence of any fault on the Association's part. I do not uphold this aspect of the complaint.

*(b) Conclusion*

13. As mentioned in paragraph 9 the Association carried out more works than Mrs C or her daughter should have expected given the OT's recommendation. It was their intention to reposition the existing shed to make access easier for Ms C but these plans came to nothing with Ms C's purchase of a new, larger power chair. The Association informed Mrs C that they could not authorise the

cost of a new shed (paragraph 10) but, she complained that she was never told this at the outset. However, as I have already pointed out, the Association could not have anticipated Ms C's decision to buy a new chair (paragraph 12). Therefore, they cannot be criticised for not mentioning to Mrs C that if her daughter did so, and a new shed was required, she would have to pay for it. In the circumstances, I do not uphold this complaint.

27 March 2007

**Explanation of abbreviations used**

Mrs C	The complainant
Ms C	Mrs C's daughter
The Association	Castle Rock Edinvar Housing Association
The OT	A community Occupational Therapist