

Scottish Parliament Region: Central Scotland

Case 200601668: South Lanarkshire Council

Summary of Investigation

Category

Local government: Aids to handicapped, Chronically Sick and Disabled Acts 1970/2

Overview

The complainant (Mr C) raised a number of concerns about the provisions made by South Lanarkshire Council (the Council) to assist his mother (Mrs A) in and out of her home.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) should have carried out an assessment of the property and Mrs A's needs in advance of carrying out any work (*not upheld*);
- (b) initially proposed the wrong kind of stair lift (*not upheld*);
- (c) took too long to install the stair lift agreed upon and failed to keep Mr C and Mrs A updated on progress (*not upheld*);
- (d) have still to complete all the required works (*not upheld*);
- (e) failed to address the problem of car parking (*not upheld*); and
- (f) have not apologised for the fact that officers took photographs outside the house without identifying themselves causing Mrs A some anxiety (*not upheld*).

Redress and recommendation

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. Mr C made his formal complaint to the Ombudsman on 30 August 2006. He was concerned at the provisions South Lanarkshire Council (the Council) had made to assist his mother (Mrs A), a Council tenant who was disabled, in and out of her home. He complained that the Council had not done enough and, in effect, his mother had been a prisoner in her own home for nearly two years. He alleged that although the Council's Housing and Social Work Departments had both been involved, neither department seemed to know how to resolve the problem. He said that as a consequence Mrs A had become frustrated and depressed.

2. The complaints which have been investigated are that the Council:
- (a) should have carried out an assessment of the property and Mrs A's needs in advance of carrying out any work;
 - (b) initially proposed the wrong kind of stair lift;
 - (c) took too long to install the stair lift agreed upon and failed to keep Mr C and Mrs A updated on progress;
 - (d) have still to complete all the required works;
 - (e) failed to address the problem of car parking; and
 - (f) have not apologised for the fact that officers took photographs outside the house without identifying themselves causing Mrs A some anxiety.

Investigation

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr C, his solicitor, his MSP and the Council. On 24 October 2006 I made a written enquiry of the Council and their response was received on 20 November 2006.

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

(a) The Council should have carried out an assessment of the property and Mrs A's needs in advance of carrying out any work and (b) the Council initially proposed the wrong kind of stair lift

5. Mr C said that early in 2005, the Council's intention was to install a stair climber to assist with his mother's access in and out of the house but he said that

this was totally inappropriate and unsafe. Accordingly, on 10 March 2005 he instructed solicitors to write to the Council on his behalf. In complaining to the Ombudsman he said that the Council had not carried out an assessment of the property and his mother's needs, as they should, and that if they had done so such an inappropriate solution for access would not have been suggested.

6. The Council's response to me of 20 November 2006 said that Mrs A had been referred to Social Work Resources in August 2004 and an initial assessment of her needs was undertaken by an Occupational Therapist (OT) in September 2004. They said that while the assessment concentrated on Mrs A's abilities and limitations inside her home, it also considered the external environment which was particularly challenging as the property had 17 steps (arranged as 5,5,5, and 2 with platforms between each set) from the pavement to the front door.

7. I was advised that a number of options were considered in respect of the access problem and the OT liaised with an external stair lift contractor who was of the view that an external lift would not be possible. A number of lifting options were then considered but were not acceptable to Mr C who then concluded that his mother should seek alternative housing. An application was submitted on 17 March 2005 and was actively pursued until it was withdrawn on 18 April 2005. Mr C said that the family wished to pursue alternative equipment for the front access again. The Council said that a re-assessment by a different OT was organised on 9 May 2005. This was to establish whether there were any possible alternatives to overcome the gradient problem to the front of the house. Again, a range of lifting equipment was considered and trials were organised, but the only lifting equipment in which Mr C was interested and which he had sourced, was not found suitable as Mrs A exceeded the manufacturer's stated weight limit. I was advised that other possibilities were discounted by both parties because there were risks associated or because installation was technically not possible.

8. In the circumstances, on 16 June 2005, the Council requested Housing and Technical Resources to undertake a feasibility study to determine whether the layout of the external stair could be altered to accommodate an external lift safely. The feasibility study was completed and the Council pursued the necessary building warrants, planning permission and ground preparation in advance of an external stair lift being fitted. I have been advised that all the necessary consents were granted by 20 February 2006.

(a) Conclusion

9. Mr C complained that the Council did not carry out an assessment of his mother's house or her needs in advance of any work but this does not appear to have been the case. Two OT's assessed the situation in September 2004 and May 2005 (paragraphs 6 and 7). Solutions were suggested and trials were undertaken before any work began. In the circumstances, I do not uphold this aspect of the complaint.

(b) Conclusion

10. Mr C said that the Council initially proposed the wrong kind of stair lift but it appears to me that the Council suggested and trialed a number of alternatives. Mr C himself also sourced details of a possibility and, while this may have been his preferred option, it was found to be unsuitable (paragraph 7). Accordingly, I do not uphold this complaint.

(c) The Council took too long to install the stair lift agreed upon and failed to keep Mr C and his mother updated on progress

11. Mr C said that his mother became a virtual prisoner in her own home and that this was both frustrating and depressing for her. He said the situation went on for nearly two years and during this period neither he nor his mother was kept updated.

12. The Council's response (paragraph 3) showed that by June 2005 in order to achieve access for Mrs A, they had explored many commercially available alternatives, but, for one reason or another, none were suitable. Therefore, on 16 June 2005, Housing and Technical Resources were charged with the task of establishing whether the external access could be altered so that a stair lift could be used safely. Investigations were undertaken and by January 2006 an external lift had been commissioned and all the necessary permissions had been obtained. Ground works were completed by 20 February 2006. Building work began on 8 May 2006 and the lift was installed on 30 June 2006 at an approximate total cost of £26,000. The Council maintained that throughout this entire period Social Work Resources kept almost daily contact with Mr C, (liaising with staff in Housing and Technical Resources), in an effort to keep him and his mother updated.

13. I have had sight of correspondence sent during this period and on 27 September 2005 Social Work Resources sent a letter concerning the lift

installation to Mr C's solicitors. The correspondence advised of the purpose of the OT re-assessment (paragraph 7) and of the involvement of architects and civil engineers in a feasibility study. A contact number was given for any enquiries. Thereafter, the solicitors on Mr C's behalf passed further correspondence to him about the installation of the stair lift on 30 November 2005. Mr C's MSP was also involved and he wrote on 27 March 2006 expressing concern at the time matters were taking. The information he received (about the complexities of the situation and the design solutions explored and then decided upon) was forwarded to Mr C on 13 April 2006.

(c) Conclusion

14. I can readily understand Mr C's and Mrs A's frustration at the pace of events, but, by all accounts, this was not an easy task. The gradient to access the front of the house was extremely steep with 17 steps in a particular configuration (paragraph 6). An engineering solution had to be found to resolve this. Similarly, it was difficult to source a stair lift that could cope with the gradient and still be safe. In all the circumstances I do not consider that the time it took to install the lift was inordinately long. Furthermore, while Mr C said that he was not kept advised, I am satisfied that he was adequately updated (see paragraph 13) even although updates were given as a consequence of an enquiry. A contact number had been given for enquiries. Then, early in 2006, workmen were attending at Mrs A's home excavating ground works and laying foundations (paragraph 12), with the major building works being started in early May 2006 until the end of June 2006, during which time Mr C would have been witnessing progress for himself. On balance, therefore, I do not uphold this aspect of the complaint.

(d) The Council have still to complete all the required works

15. Mr C contends that the work has not been properly finished; that the handrail is too large for his mother to grip, external lighting has not been fitted and nosings are absent from the steps. The Council's response to my enquiries dated 20 November 2006 addressed these matters saying that on 16 August 2006 Social Work Resources sought estimates associated with the lighting and stair nosing work. I was advised that the lighting work was currently underway and that the works to the staircase nosings were dependent upon them being delivered by suppliers. With regard to the diameter of the handrail which Mr C said is too wide to grip; the Council pointed out that while the 60mm grip is in accordance with building regulations, the matter is being discussed

with Mr C and Mrs A in order to investigate the situation further.

(d) Conclusion

16. The works carried out by the Council to assist Mrs A were quite extensive and this being so, it would not be unusual for 'snagging' items to remain. I fully understand the complainant's desire to have everything completed to his satisfaction within as short a time scale as possible. However, taking this into account and all the other information available to me, I do not uphold Mr C's complaint on this score. The lighting situation was being addressed, the stair nosings were on order and although Mr C was unhappy with the handrail, in the Council's view it complies with building standards. Moreover, the Council are willing to discuss this further with the complainant.

(e) The Council failed to address the problem of car parking

17. Mr C said that his mother's mobility is such that she should have a dedicated disabled car parking space at the front of the house. Correspondence available to me dated 22 August 2006, between the Council's Chief Executive and Mrs A, showed that after Social Work Resources involvement and discussions with Mr C, a hatched box, 2m by 1.8m, would be marked on the carriageway outside Mrs A's house. This work was done to ease Mrs A's access and in an attempt to prevent others from parking there. Mr C's view was that this solution was insufficient and that his mother should be allocated a dedicated parking space. He said that he was aware of the Council's policy for such spaces but he felt that it was being applied too rigidly and to his mother's disadvantage.

18. The Council advised me in their response of 20 November 2006 that they have criteria (which have been formulated jointly by Social Work Resources and Roads and Transportation Services) in place to determine whether an advisory disabled parking bay should be provided. The criteria are that; the person must be the driver of the vehicle; there should be no alternative parking available, for example a driveway or lock up; and the person cannot be left unattended while the vehicle is parked. The Council have said that Mrs A is not the main driver and there are no exceptional circumstances applying where she cannot be left alone while the car is being parked. Also, that the car is kept in a lock up 35m away from the steps to her house. In the circumstances, they have concluded that Mrs A does not meet the criteria for a disabled parking bay and that this has been explained to Mr C. However, they further said that in order to assist, and in an attempt to protect Mrs A's wheelchair route, a dropped kerb has been

provided together with the hatched area referred to above (paragraph 17).

(e) Conclusion

19. Mr C is unhappy that the Council will not give his mother a disabled parking bay. He said that they are applying their policy too strictly and, while I sympathise in so far as I appreciate that Mr C wants the best for his mother, I do not uphold his complaint. There is no evidence to suggest to me that the Council were applying their policy either unfairly or too rigidly. The Council have also taken other action in order to help Mrs A.

(f) The Council have not apologised for the fact that officers took photographs outside the house without identifying themselves causing Mr C's mother some anxiety

20. It appeared that on one occasion when officers from Roads and Transportation Services came to view the works, they took photographs and Mr C complained that as they did not identify themselves to his mother, they put her in 'fear and alarm'.

21. In replying to me (paragraph 3) the Council said that after a complaint from Mr C about the dropped kerb, officers went to inspect the site and to take photographs. They were doing so from the access road to a car park some 5m away from the dropped kerb which was at the bottom of the 17 steps up to Mrs A's house. While they were there, they said that Mr C (who was working on his car near by) asked who they were and what they were doing. The Council maintained that their officers introduced themselves and explained their presence. In the circumstances, they said it was assumed that Mr C would have advised his mother.

(f) Conclusion

22. I accept the Council's explanation as given to me (paragraph 21). While Mr C believed that the circumstances described warranted an apology to his mother, I do not agree and I do not uphold this aspect of his complaint.

23 May 2007

Explanation of abbreviations used

Mr C	The complainant
The Council	South Lanarkshire Council
Mrs A	The complainant's mother