

**Case 200600755: The City of Edinburgh Council**

**Summary of Investigation**

***Category***

Local government: Repairs and Complaint Handling

***Overview***

The complainant (Mr C) raised concerns regarding The City of Edinburgh Council (the Council)'s alleged failure to carry out an inspection and repair to a communal aerial and also the subsequent management and investigation of his complaint by the Council.

***Specific complaints and conclusions***

The complaints which have been investigated are that the Council:

- (a) failed to carry out the inspection and repairs adequately (*upheld*);
- (b) failed to handle the complaint in line with the complaints procedure (*not upheld*); and
- (c) intentionally withheld information which was significantly relevant to the complaint (*not upheld*).

***Redress and recommendations***

The Ombudsman recommends that the Council apologise for not responding adequately to the request for an electrician in the first instance.

The Council have accepted the recommendation and will act on it accordingly.

## **Main Investigation Report**

### **Introduction**

1. The complainant (Mr C) brought his complaint to the Ombudsman on 14 June 2006. Mr C complained about the actions of The City of Edinburgh Council (the Council) in relation to carrying out repairs and the handling of his complaints.

2. The complaints from Mr C which I have investigated are that the Council:
- (a) failed to carry out the inspection and repairs adequately;
  - (b) failed to handle the complaint in line with the complaints procedure; and
  - (c) intentionally withheld information which was significantly relevant to the complaint.

### **Investigation**

3. In conducting my investigation, I obtained evidence from both Mr C and the Council; I met with Mr C on a number of occasions, reviewed the complaints correspondence and also listened to recordings of telephone calls which were relevant to the complaint. I also took account of the Council's complaints procedure and repairs policy.

4. When Mr C originally brought his complaint to the Ombudsman's office, the complaint was initially reviewed and closed based on the evidence available at that time. Mr C, after receiving a copy of the evidence on file, returned to the Ombudsman's office and raised new points. Following consideration of Mr C's points, the case was re-opened and a formal investigation was subsequently started.

5. I have not included in this report every detail investigated but 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 failed to carry out the inspection and repairs adequately**

6. Mr C lives in a tenement property with his mother. On 26 December 2005, an electrical fire broke out directly above Mr C's flat in the communal attic of the tenement. The fire appeared to have been caused by a fault in the communal television aerial adaptor which was located in the communal attic directly above Mr C's bedroom. The complaints stem from the fire and the actions of the

Council in inspecting and failing to carry out a repair to the wiring in the communal attic on 23 December 2005, three days prior to the loft fire.

7. On 23 December 2005 at 14:30, the Council received notification from their building services department that an electrician was required to attend 27/5 X Road. Following receipt of this notification, a job order was produced which directed an electrician to attend at the specific address, with no mention of the communal attic.

8. The recordings of the calls which I have listened to indicate that there was some confusion between staff as to whether or not the electrician was required at a specific address or whether the repair was a communal repair. The fact that the job order was made out for a specific address and did not direct the electrician to carry out a communal repair was the result of a communication breakdown. The electrician attended the specific address and was unable to gain access to the specified address as the occupier was not at home. As a result, the inspection of the communal aerial was not carried out when it should have been. Furthermore, the electrician, unless advised otherwise, would have returned to the incorrect location due to the communication breakdown and inaccurate information he had received from the Council.

*(a) Conclusion*

9. The Council, in providing evidence to me, accepted that a miscommunication resulted in the electrician being provided with inaccurate information. This miscommunication then resulted in unnecessary delay in the electrician carrying out an inspection to the communal loft. As a result, I uphold this complaint.

*(a) Recommendation*

10. The Ombudsman recommends that the Council apologise for not responding adequately to the request for an electrician in the first instance.

**(b) The Council failed to handle the complaint in line with the complaints procedure**

11. Mr C complained that the Council failed to adequately investigate his complaint when he first raised the issue with the Council via his Member of Parliament (MP) and as such failed to handle his complaint adequately. The Council, in responding to Mr C's complaint, stated that their records showed that an electrician did call at 27 X Road on 23 December 2005 but he was

refused access. The Council stated to Mr C that this constituted evidence that they had acted appropriately in responding to the request for an electrician.

12. Mr C then, via his MP, challenged the Council's position and claimed that the electrician would not have been refused access to the communal loft. Mr C's neighbours supported his position and signed a declaration to state that they had not prevented an electrician from accessing the communal loft. Following this challenge, the Council then revisited their evidence and also obtained further evidence, which included interviewing the electrician, which highlighted that the electrician had called at a specific address as opposed to the communal loft.

13. Mr C argued that the Council, in dealing with his complaint, were deliberately misleading him and covering up their failure to send an electrician in response to the emergency call. Mr C clearly believed that the Council were deliberately misleading him as he had been assured by his neighbours that they had not refused access to the communal loft. Furthermore, the Council in their correspondence with Mr C stated that the electrician had been 'refused access'. However, following further representations from Mr C, the Council identified that the electrician had been provided with inaccurate information as detailed above.

*(b) Conclusion*

14. The Council's initial responses to Mr C's complaint maintained that the Council had responded properly to the request for an electrician to attend. It took some months before the miscommunication was identified and the reason for the electrician not attending, namely a miscommunication between Council staff, was communicated to Mr C. Once the Council identified that the electrician had not been 'refused entry' but had been provided with inaccurate information, they apologised to Mr C for their misinterpretation of the records in the first instance.

15. It is the normal practice of this office not to uphold complaints where an authority has identified a shortcoming and taken action to remedy the complaint prior to the Ombudsman's involvement in the case. In light of this approach, I do not uphold this aspect of complaint. The fact that the Council have already apologised for their misinterpretation of the records is, in my view, an adequate approach to remedy this aspect of complaint.

*(b) Recommendation*

16. The Council have already apologised to Mr C for failing to interpret their records when initially dealing with Mr C's complaint. As a result, I make no further recommendations in respect of this head of complaint.

**(c) The Council intentionally withheld information which was significantly relevant to the complaint**

17. Mr C complained that the Council intentionally withheld information when dealing with his complaint. The information which Mr C claimed to be withheld relates to the fact that a member of the public (Mr N) who lived in a flat within 29 X Road (the adjoining tenement to Mr C's tenement), also called the Council to report a problem with his television signal on 23 December 2005. Mr C has argued that the fact Mr N called the Council to report a potential problem with the communal aerial, from 29 X Road, played a significant part in the Council's failure to respond to the request for an electrician adequately. Mr C has claimed that the Council became aware of the alleged confusion caused by Mr N's call, and attempted to withhold this information from Mr C, his representatives and the Ombudsman. Mr C has also claimed that he was unaware of Mr N's involvement possibly contributing to the Council's failure. Mr C argued that the Council, in failing to disclose earlier in their investigation that Mr N's call to the Council may have contributed to the failing, had intentionally withheld information which Mr C felt was of vital importance to his complaint.

*(c) Conclusion*

18. The Council have maintained that at no time had they intentionally withheld information in relation to this complaint and the possibility of the call from Mr N affecting the Council's response to the request for an electrician only came to light at a late stage in the Council's handling of the complaint. I have seen no evidence to support Mr C's assertion and consequently I do not uphold this head of complaint.

19. The Council have accepted the recommendation and will act on it accordingly. The Ombudsman asks that the Council notify her when the recommendation has been implemented.

**Explanation of abbreviations used**

Mr C	The complainant
The Council	The City of Edinburgh Council
X Road	The street in which Mr C resides
MP	Member of Parliament
Mr N	Mr C's neighbour

**List of legislation and policies considered**

The Council's complaints procedure

The Council's repairs policy