

Scottish Parliament Region: North East Scotland

Case 200603559: Dundee City Council

Summary of Investigation

Category

Local government: Housing, modification of stock for disabled

Overview

The complainant (Mrs C) was a disabled tenant of Dundee City Council (the Council). Following a number of falls and the alteration of her front steps, Mrs C had difficulties entering and leaving her house. She approached the Council to ask that her entrance be suitably modified to assist her access.

Specific complaint and conclusion

The complaint which has been investigated is that the Council did not respond reasonably to Mrs C's request for suitable adaptations to the front entrance of her house to assist her access (*not upheld*).

Redress and recommendation

The Ombudsman recommends that the Council give full consideration to the reinstatement of the original layout of Mrs C's steps and any other measures that may assist Mrs C in accessing her property.

The Council have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 11 August 2004, the complainant (Mrs C) fell on the steps leading up to the door of her house as a result of damage to those steps. Dundee City Council (the Council) accepted liability for this accident, compensated Mrs C and replaced the steps. After that time, Mrs C experienced difficulty using her steps due to weakness in her wrist, osteoporosis, heart trouble and other conditions. She approached the Council on a number of occasions to ask whether it would be possible for them to adapt her steps to make it easier for her to enter and leave her home. The Ombudsman received a complaint from Mrs C on 10 April 2007.

1. The complaint from Mrs C which I have investigated is that the Council did not respond reasonably to her request for suitable adaptations to the front entrance of her house to assist her access.

Investigation

2. To investigate this complaint, I have reviewed the Council's correspondence with Mrs C, including the medical reports which she sent them and photographs of her steps. I made inquiry of the Council on 22 August 2007 and received their response on 11 September 2007, which included the relevant policies concerning adaptations for disabled people.

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

Complaint: The Council did not respond reasonably to Mrs C's request for suitable adaptations to the front entrance of her house to assist her access

4. Mrs C was an elderly tenant of the Council in a ground floor, sheltered property, which she had been allocated as a priority applicant some years previously on the grounds of her disability. There were three steps to the door to her house which suffered some deterioration. On 11 August 2004, Mrs C fell on the damaged steps and suffered injuries to her hands, head and wrists, including a fracture to her right distal radius. She reported this to the Council and they replaced the steps. The new steps had a different configuration from the old ones, with a narrower and shallower middle step. On

26 November 2004, Mrs C's GP (the GP) wrote to the Council to relay her wish for a ramp to be installed at her main door to assist her access following her fall.

5. The Council replied to this letter on 8 December 2004 stating that Mrs C's access needs had been assessed and that the occupational therapy section would only recommend a ramp for a client who used a wheelchair on a full-time basis.

6. On 30 May 2006, the GP again requested consideration of a ramp to assist Mrs C's access to her property and, following a further fall, wrote again on 11 August 2006 raising concerns about Mrs C's difficulty in getting in and out of her house. At the same time, Mrs C approached a local councillor (the Councillor) whom she knew, who also made representations to the Council on her behalf.

7. A letter from a Council occupational therapist (the OT) on 10 July 2006 to the Council's special needs section restated the earlier assessment that Mrs C would not be eligible for a ramp. The OT also said that she did not consider that the provision of further handrails would assist Mrs C in accessing her property.

8. Mrs C again fell on her steps in October or November 2006, again fracturing her wrist. She was provided with a tri-walker at the hospital where she was treated. Officers from the Council's housing department referred Mrs C to the OT to ask if her steps could be widened to allow her to take the walker in and out of her house. The OT advised that the walker should not be used indoors. In an internal memo of 9 February 2007, a Council housing officer noted that she could not authorise any adaptations to Mrs C's property without the appropriate professional recommendation. There was no recommendation to adapt Mrs C's entrance at that time. At this point, Mrs C had also indicated that she did not regard the provision of a ramp as the only acceptable solution to assist her access.

9. A joint visit by a community physiotherapist and an occupational therapist was arranged for 12 March 2007 in order to progress Mrs C's request for adaptations to her entrance. An internal Council memo notes that Mrs C declined this meeting. Mrs C denies this.

10. On 3 April 2007, a service manager from the social work department (the Service Manager) wrote to a colleague in the community rehabilitation team to seek a resolution to this matter, suggesting that an updated opinion and recommendation may be appropriate. After seeking further advice from colleagues in the health service, the Service Manager wrote to Mrs C on 14 May 2007 to tell her that she should not use her walker on her steps, even if they were modified. He said that the Council would be prepared to construct a store for the walker outside Mrs C's door so that she could use it outside. She did not accept this offer and continued to seek a solution that would address her primary concern, which was that of her safety in entering and exiting her property. She noted that her hand was weak and that she had difficulty gripping the handrail. She again said that she would like her steps to be altered. Mrs C believed that the restoration of the original configuration of the steps would make her access easier.

11. The Service Manager wrote to the GP on 25 May 2007. He outlined the Council's position and mentioned the offer of outside storage for the walker. He said that Mrs C continued to ask for a ramp and that the Council had done all they could reasonably be expected to do. He invited the GP to contact the community rehabilitation team if it was considered that there were other factors that should be taken into account. The Service Manager reiterated this advice to the Councillor.

Conclusion

12. Mrs C believes that the Council had, in their possession, sufficient medical evidence of the nature of her disabilities to allow them to make adjustments to her steps that would make her access easier and safer. It is certainly the case that the Council were aware of her falls and of the injuries she had sustained. In response, they sought to establish whether suitable adaptations could be made in line with their usual system for approving such recommendations. This system required a recommendation from an occupational therapist based on their professional judgement of a client's needs.

13. From the evidence I have seen, the Council did take Mrs C's needs into account when assessing whether it would be appropriate to modify her steps to allow her to take her walker in and out of her house. They judged that it would be unsafe for her to do this and made a reasonable offer of a storage facility to allow her to use the walker out of doors. They also made a decision in line with their policy with respect to the provision of ramps for disabled people. As Mrs C

was not a wheelchair user, she did not qualify for this adaptation. Additionally, they did not consider that alterations to her handrails would assist Mrs C.

14. However, although the Council made reasonable assessments on these matters, they did not give full consideration to other adaptations to assist Mrs C in accessing her house. In particular, I have not seen evidence that they considered her request to reinstate the original configuration of the three steps up to her door. They also continued to focus on the issue of a ramp some time after Mrs C indicated that she would happily consider other means of assisting her access. In addition, the Council's communications with Mrs C do not clearly state the reasons for their decisions, other than to cite the lack of an appropriate recommendation from the relevant professional.

15. At the same time, this should be balanced by the fact that Mrs C did not cooperate fully with the Council over the joint assessment they offered to undertake and by the Council's invitation to the GP to supply any relevant information that would assist their decision making.

16. At the time of writing this report, no modification has been made to Mrs C's steps. It is clearly a matter of concern to Mrs C that this situation has not been resolved to her satisfaction almost four years after the GP's first letter to the Council raising her concerns. There is no doubt that Mrs C had difficulties in accessing her property. I am also satisfied that the Council took this matter seriously. However, there are clear signs that this situation became fraught and it is possible that if the Council explored the possibilities and limits of what could be achieved more clearly with Mrs C and earlier in this process, the matter may not have escalated in the way that it did.

17. In conclusion, I consider that, while there were shortcomings in the way the Council handled Mrs C's request for assistance, they acted within their own guidance and observed due process in coming to their decisions. On balance, I do not, therefore, uphold this complaint.

Recommendation

18. It is not for the Ombudsman to question the professional judgement of those involved in assessing Mrs C's access needs. However, it is disappointing that a resolution has not been found and it is possible that further exploration of options with all parties may yield a practical solution. Therefore, the Ombudsman recommends that the Council give full consideration to the

reinstatement of the original layout of Mrs C's steps and any other measures that may assist Mrs C in accessing her property.

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

Explanation of abbreviations used

Mrs C	The complainant
The Council	Dundee City Council
The GP	Mrs C's General Practitioner
The Councillor	A local councillor known to Mrs C.
The OT	A senior Council occupational therapist who was involved in Mrs C's case
The Service Manager	A service manager from the Council's social work department

List of legislation and policies considered

Council report on Best Value Review of Housing and Related Services for
People with Physical Disabilities: Continuous Improvement Proposals
17 September 2001

Disability Discrimination Act 1995