

Complaint reference:
13 002 866

Complaint against:
Wyre Forest District Council

The Ombudsman's final decision

Summary: There was no fault in the way the Council made its decision not provide a Disabled Facilities Grant (DFG) to Mrs B for a stair lift. The Council properly assessed Mrs B's needs and determined her current facilities meet her key requirements. The Ombudsman has no grounds to go behind the Council officers' professional judgment.

The complaint

1. Mrs B complains the Council has unfairly decided not to provide her with a Disabled Facilities Grant (DFG) to install a stair lift in her home.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and, if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)
4. The Ombudsman has the power to start or discontinue an investigation into a complaint within her jurisdiction. (*Local Government Act 1974, sections 24A(6) and 34B(8)*)
5. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30 (1B) and 34H(i)*)

How I considered this complaint

6. As part of the investigation, I have:
 - considered the complaint and the documents provided by Mrs B;
 - considered the notes of Mrs B's conversation with my colleague in the Assessment team;
 - taken account of the documents produced by the Council, as provided to this office by Mrs B;
 - produced a provisional view statement and invited comments and further evidence from Mrs B and the Council.

What I found

Relevant law

7. The Housing Grants, Construction and Regeneration Act of 1996 is the key legislation here. The law sets down the issues the local housing authority must consider on receiving a DFG application. Before agreeing the DFG, the authority must be satisfied:

“(a) that the relevant works are necessary and appropriate to meet the needs of the disabled occupant, and

(b) that it is reasonable and practicable to carry out the relevant works having regard to the age and condition of the dwelling and building”.

8. As the Council here is not one which delivers social services, the law meant the Council also needed to consult the local social services authority.

Summary of events

9. Mrs B lives in a two-storey housing association property with her husband Mr B and two adult children. Mrs B has a daughter who is at university, but who returns to the family home between her studies.
10. Mrs B has medical conditions which mean she is often unable to climb stairs and has to be carried up. Mr B has also been diagnosed with a weakening condition.

2008 to 2009

11. In 2008 to 2009, the Council decided it should fit Mrs B's house with a stair lift, to meet her need for access to a bathroom. But at that time, Mrs B did not want a stair lift fitted. She wanted a downstairs bathroom and extra room. She complained about the Council's decision. Her OT supported Mrs B, saying she thought a stair lift would not meet Mrs B's longer term needs. The Council also suggested Mr and Mrs B might move to a bungalow. Mrs B did not want to move because she considered this would split up the family and she wanted to stay in the same area.
12. Eventually, the Council and the housing association agreed that Mrs B should have a ground floor extension and a downstairs shower room in her current property. The new room and shower room were all fitted with level access to allow Mrs B to move freely around the ground floor of the house.
13. I understand the Council funded this work to the equivalent value of a stair lift and shower, which the Council considered Mrs B would have been entitled to within the scope of the DFG funding. The housing association provided further funding which was outside the scope of the Council's DFG assessment.

2012 onwards

14. In 2012, Mrs B asked the Council for a DFG to install a stair lift. The Council asked for an OT assessment from the local social service authority to inform its consideration. It appears the OT supported the request for a stair lift. But the Council determined Mrs B's needs were being met by her current accommodation with the downstairs shower room and downstairs level-access room, which could be used by Mrs B as a bedroom.
15. Mrs B complained to the Council about its decision not to now fit a stair lift. Mrs B says she needs the use of a bath instead of a shower, because this gives her pain relief from her medical conditions. Also Mrs B says she does not like sleeping downstairs, because she finds it unsettling.

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16. Mrs B's daughter has been using the downstairs room as business premises, when she is not at university. If Mrs B were to use the downstairs room for a bedroom, her daughter could not use the room anymore and would have to find alternative premises. Mrs B says when her daughter is working from the property she is there to give help to Mr and Mrs B. This would not be possible if she had to work elsewhere.
 17. The Council has said in its replies to Mrs B's complaint that the downstairs shower room and level-access room meet her needs. The Council also says Mrs B could use this room as a downstairs bedroom. The issue for the Council is not providing business premises for Mrs B's daughter, but for the house to meet Mrs B's needs.
 18. The Council considered Mrs B's DFG application for a stair lift contradicts the position Mrs B and her OT took in 2008 to 2009, when they argued a stair lift would not meet Mrs B's needs. The Council also determined the DFG request fails the "necessary and appropriate" test. The Council considers the work done in 2009 exceeded the work needed at the time, and still provides a suitable solution to meet Mrs B's needs. There are other people asking for DFG funding who, unlike Mrs B, do not have facilities which meet their core needs.
 19. The housing association says their policies on amendments to houses have changed in the different financial climate. The association has said to the Council that, as owner of the house, they would not grant the relevant permission for the installation of a stair lift.

Assessment

20. I have not seen evidence of fault by the Council in its assessment of Mrs B's needs and DFG application here. It has considered the information and taken proper account of the legislation. The key focus for the Council is whether the property and the work already done in 2008 to 2009 meets Mrs B's current needs. I consider the Council has conducted the appropriate assessments here.
21. The Council has not been persuaded that Mrs B's needs have changed in a way which justifies installing a stair lift. This is a professional judgement for the Council to make. I do not consider there are grounds for the Ombudsman to go behind that assessment because there does not appear to have been fault in the way it was made.
22. I recognise it would be Mrs B's ideal scenario for the Council to now fit a stair lift. In her 9 April 2013 letter to the Council, Mrs B describes this as the "best option" for her. But DFGs and other schemes are not required to provide funding for a person's ideal circumstances. Any council managing the scheme should consider whether the applicant's current accommodation and facilities meet their needs before giving further funding. That is what the Council has decided here. I have not seen fault in the way it did this assessment.
23. Mrs B has said being able to use the bath helps with her conditions, including further pain relief. The shower room may not provide the ideal facilities for Mrs B. But it meets her core need to have easy access to washing facilities. I do not find it was fault by the Council to not consider lack of easy access to a bath as a compelling reason to agree the DFG.
24. For Mrs B, her daughter being able to continue with her business from the ground floor room in the family home is an important issue. But it is not an issue which it falls to the Council to consider when assessing Mrs B's needs and DFG

application. The downstairs extension was built to meet Mrs B's needs, not to meet the business needs of her daughter.

25. I recognise Mrs B's daughter may provide help to her and Mr B if she is there running her business. But the Council was right not to take account of this when considering the application for a DFG. If Mr and Mrs B need more help during the day, they might consider asking for that care from the Council.
26. I realise Mrs B says she does not like sleeping downstairs. I do not doubt Mrs B's views and feelings on this point, and recognise Mrs B would prefer to sleep upstairs. But the Council was not persuaded that this preference is sufficient reason for them to fund a stair lift. I do not consider there are grounds for the Ombudsman to go behind the Council's position here.
27. One way that more or different facilities can be provided to a disabled person and their family is for them to decide to move to a different property. It is a matter for Mrs B and her family to decide whether to accept any offer of a move from their current home. But it was appropriate for the Council to give this as an option.
28. Even if the Council agreed to fund and install a stair lift, it appears the housing association would not give permission for it. This is a decision for that organisation to make. The Ombudsman has no jurisdiction over the housing association so has no remit to investigate its decision. If Mrs B disputes its actions here, she may complain to them in the first instance.

Final decision

29. I do not consider there has been fault by the Council here. I have closed my file and completed my investigation.

Investigator's decision on behalf of the Ombudsman