

Bolsover District Council

Executive

21 June 2021

Local Government and Social Care Ombudsman Decision

Report of the Monitoring Officer

Classification: This report is public

Report By: Sarah Sternberg, Monitoring Officer

Contact Officer: Ann Bedford, Customer Standards & Complaints Officer

PURPOSE / SUMMARY

- To provide information in relation to a decision made by the Local Government and Social Care Ombudsman.
 - To ensure that the organisation is fair to all service users.
 - To review procedures to prevent a similar situation from happening again.
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RECOMMENDATIONS

1. That Executive receive the report and note its contents and recommendations.

Approved by the Portfolio Holder – Corporate Governance

IMPLICATIONS

Finance and Risk: Yes No

Details:

The Local Government and Social Care Ombudsman has found fault and imposed a financial penalty.

On Behalf of the Section 151 Officer

Legal (including Data Protection): Yes No

Details:

Part III of the Local Government Act 1974, the Local Government and Social Care Ombudsman provides independent, impartial and prompt investigation and resolution of complaints of injustice caused through maladministration.

There are no Data Protection implications. This report, and the LGSCO decision, has been depersonalised to preserve Mr and Mrs X's identity.

On Behalf of the Solicitor to the Council

Staffing: Yes No

Details:

There are no staffing implications.

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:</p> <p>BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/></p> <p>NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> Please indicate which threshold applies</p>	No
<p>Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)</p>	No
<p>District Wards Significantly Affected</p>	None
<p>Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/></p>	Yes Details: Councillor McGregor, Deputy Leader

Links to Council Ambition (BDC) priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.

Increasing customer satisfaction with our services
 Improving customer contact and removing barriers to accessing information
 Actively engaging with partners to benefit our customers
 Providing good quality council housing where people choose to live

REPORT DETAILS

1 Report Details

Background

The full LGSCO decision is appended at Appendix 1.

- 1.1 The Council secured funding to carry out essential repairs and restore original features to the Grade II listed homes in New Bolsover Model Village. As well as Council properties, all private properties were offered certain work free of charge and homeowners could also choose other works to be carried out, at a discounted cost. The work was carried out by a private construction firm employing architects
- 1.2 In March 2018, Mr and Mrs X accepted the offer and also chose further work, from a 'shopping list' of options, including further work to the roof and installing insulation.
- 1.3 Work commenced in April 2018 and Mr and Mrs X complained to the construction firm that, on removing part of the roof, damp had caused damage to their belongings and water damage in the house. The contractor offered a discount of £300 for the damage and the site manager agreed to complete the works to the expected standard and said it would be signed off in stages by the architect.
- 1.4 Work continued to the property and the project architect produced a 'snagging' list, a list of minor faults to be rectified. This included some replacement brickwork, added pointing, painting and cleaning. Mrs X signed a handover certificate to record her satisfaction with the work completed, subject to several outstanding items which included external snagging and a roofing guarantee.
- 1.5 In 2019, the new site manager sent Mr and Mrs X a warranty for the work to install tiles on the roof. In February, the Council became aware that Mr and Mrs X had been charged for the less expensive insulation package but the contractor had installed the full package and absorbed the added cost itself, so the amount Mr and Mrs X would pay remained the same.
- 1.6 The project architect inspected the roof insulation, which appeared to have been carried out to specification although there were two areas where insulation still needed to be installed. Mr X contacted the Council following a meeting with the site manager.

He said he would accept an offer of £300 from the contractor for water damage and the loss of their possessions, however, he intended to pay a reduced amount towards the outstanding bill to reflect the continuing concerns about the work. The Council said the architect had confirmed the work had been completed to specification and the full payment was now due, minus the £300 offered by the contractor. Mr X replied there were parts of the roof space the architect could not inspect as he could not

access them. He said the roof warranty had been issued without the architect's approval and other work to the outside of the building was outstanding and he wanted a discount on the rest of the bill.

- 1.7 The Council said major works will always cause some disruption and inconvenience. The contract had no formal 'sign offs' but the architect and officers from the Council had inspected the roof inside and out. It assured Mr X it had installed the roof correctly and this was why a warranty had been provided.
 - 1.8 The Council arranged for building control to visit the property in June 2019, to confirm the works were carried out to specification and in line with building regulations. The surveyor carried out a visual inspection of the roof space and said insulation had been installed in the areas they could see. There was one part of the roof which was not accessible, and the surveyor suggested carrying out a further survey using a small camera. The surveyor did not comment on whether the insulation complied with building regulations. The surveyor also noted two areas of the building where mortar was missing and flashing was loose.
 - 1.9 The Council said it could not offer a further discount as Mr and Mrs X had already received a more costly package than they had paid for.
 - 1.10 Mr and Mrs X declined the camera survey and asked for the inspection to be carried out from outside.
 - 1.11 Mr X said he intended to arrange for another builder to complete the work and bill the Council. The Council wrote to Mr and Mrs X in October 2019 to advise that the loft work had been completed and, subject to the snagging work being carried out, if they remained unhappy their next recourse was with the LGSCO.
 - 1.12 Mr and Mrs X reported further leaks in November 2019. The Council asked Mr and Mrs X to sign off the work but they would not until the water ingress issue had been resolved. Mr X said he would arrange for his own roofing contractor and offset this against the outstanding balance owed. The Council responded to say that attempts to arrange visits had not been taken up by Mr and Mrs X and that work carried out by any other contractor would invalidate the warranty.
 - 1.13 Mr X commissioned a report by an independent building surveyor which highlighted some issues, some of which were previously unidentified. The inspection was carried out on 3rd January 2020. Following receipt of this report, the Council met on site with the contractor and architect (January 2020).
 - 1.14 It was identified that the gap in the loft insulation (as per the architect's original plans) could not be achieved due to the age and shape of the building. Whilst suggesting other resolutions, the Council could not achieve the result Mr and Mrs X wanted.
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- 1.15 The Council accepted that there had been delays, some unavoidable and some which, it was felt, was due to the complexity of the matter, the number of people/ organisations involved and the significant amount of correspondence. To bring the matter to a conclusion, the Council therefore wrote to Mr and Mrs X and offered, on **30th June 2020**, a 'without prejudice' resolution as follows:

A full refund of the money paid under the contract and an agreement to waive the balance as a goodwill measure to allow you to pay for the installation of loft insulation yourselves, to reflect the time your complaint has taken to resolve, and to acknowledge any inconvenience you have experienced during this project. The refund amount is £2822.

This offer is also made with regard to the provisions of the Consumer Rights Act 2015 and the fact that you do not accept our resolution regarding the insulation, you advised that the installation of the loft insulation would only be acceptable to you if it were in accordance with the architect's drawing. We cannot achieve this outcome and we have not otherwise completed a resolution in a reasonable time scale.

In addition:

We will carry out any necessary repairs to rainwater goods, chimney(s) and the lead flashings at No. xx.

We will carry out the agreed external snagging in accordance with the phased schedule of work. You requested a copy of this, advising you have not previously been sent this. Please find attached a copy, which was originally sent to you on 22nd October 2019.

We would also like to apologise in respect of the time this has taken to resolve and for any inconvenience experienced during this project.

This would be a full and final offer covering all aspects of your complaint.

Mr and Mrs X did not respond to the officer, they continued to pursue their complaint with the LGSCO and their investigation continued.

Final decision

- 1.16 Although a remedy had been offered, the LGSCO found fault, they recorded their decision, on **5th January 2021**, as 'Upheld. Maladministration and injustice.'
- 1.17 Their recommendations (in full in the appended LGSCO decision) have been carried out under delegated powers as per the Compliments, Comments and Complaints policy.

A review of working practices was carried out by Senior Managers on 30th April 2021 and the minutes were sent to the LGSCO (attached at Appendix 2). This is also the subject of an ongoing Scrutiny Review (Customer

Service and Transformation) and any recommendations identified by them and approved by the Executive will feed into the procedure for handling complaints in relation to contracted out services.

- 1.18 Additionally the Customer Standards and Complaints Officer acted as the single point of contact for Mr and Mrs X's enquiry to better manage incoming correspondence and ensure there was no duplication or omission.

2. Details of Proposal or Information

- 2.1 The report is to keep Elected Members informed of LGSCO decisions.
- 2.2 That Executive receive the report and note its contents and recommendations.

3 Reasons for Recommendation

- 3.1 Senior Officers accepted there were areas for improvement with the complaints process around this development and implemented changes swiftly.
- 3.2 Whilst a remedy had been offered, Mr and Mrs X were entitled to pursue their complaint with the Local Government and Social Care Ombudsman.

4 Alternative Options and Reasons for Rejection

- 4.1 Not applicable as the report is keep Elected Members informed rather than to aid decision making.

DOCUMENT INFORMATION

Appendix No	Title
Appendix 1	LGSCO decision notice
Appendix 2	Minutes of the meeting 30 th April 2021
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
As above.	