



Agenda

To all Members of the

CABINET

Notice is given that a Meeting of the Cabinet is to be held as follows:

Venue: Room 007a and b, Civic Office, Waterdale, Doncaster, DN1 3BU

Date: Tuesday, 18th September, 2018

Time: 10.00 am

Items for discussion:

1. Apologies for Absence.
2. To consider the extent, if any, to which the public and press are to be excluded from the meeting.
3. Public Questions and Statements.

(A period not exceeding 20 minutes for questions and statements from members of the public and Elected Members to the Mayor of Doncaster, Ros Jones. Questions/Statements should relate specifically to an item of business on the agenda and be limited to a maximum of 100 words. As stated within Executive Procedure Rule 3.3 each person will be allowed to submit one question/statement per meeting. A question may only be asked if notice has been given by delivering it in writing or by e-mail to the Governance Team no later than 5.00 p.m. on Thursday, 13th September, 2018. Each question or statement must give the name and address of the person submitting it. Questions/Statements should be sent to the Governance Team, Floor 2, Civic Office, Waterdale, Doncaster, DN1 3BU, or by email to Democratic.Services@doncaster.gov.uk).

Jo Miller
Chief Executive

Issued on: Monday, 10 September 2018

Governance Services Officer for this meeting: Andrea Hedges
01302 736716

Doncaster Metropolitan Borough Council

www.doncaster.gov.uk

4. Declarations of Interest, if any.
5. Decision Record Forms from the meeting held on 4th September, 2018 for noting (previously circulated).

A. Reports where the public and press may not be excluded

Non-Key Decision

6. Maladministration Report from the Local Government Ombudsman. 1 - 18

Chair

Ros Jones, Mayor of Doncaster

Vice-Chair

Councillor Glyn Jones, Deputy Mayor

Councillor Nigel Ball

Councillor Joe Blackham

Councillor Rachael Blake

Councillor Nuala Fennelly

Councillor Chris McGuinness

Councillor Bill Mordue

Councillor Jane Nightingale

Portfolio Holder for:

Housing and Equalities

Public Health, Leisure and Culture

Highways, Street Scene and Trading Services

Adult Social Care

Children, Young People and Schools

Communities, Voluntary Sector and the Environment

Business, Skills and Economic Development

Customer and Corporate Services



Doncaster Council

Report

18th September 2018

To the Chair and Members of
CABINET

Maladministration Report from the Local Government Ombudsman

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Councillor Nuala Fennelly		Non-key

EXECUTIVE SUMMARY

1. The Local Government Ombudsman has published a Report dated 25th July 2018 finding maladministration causing injustice. The Ombudsman has found that the Council failed to meet the needs of the complainant's disabled son by taking too long to re-house the family from a property that could not be adapted and then by delaying carrying out adaptations to their current property.
2. The details of this are attached in the Report at Appendix 1 and in the summary of this report at paragraphs 4 to 13.
3. As a remedy to the Complaint, the Ombudsman has made a number of recommendations dealing with the failure. All reports of maladministration issued by the Local Government Ombudsman are considered by Cabinet, and are circulated to all councillors. The Monitoring Officer is legally obliged to prepare a report to the Executive where there has been a finding of maladministration by the Local Government Ombudsman.

EXEMPT REPORT

4. N/A

RECOMMENDATIONS

5. (1) that the contents of the report be noted

- (2) That the findings and remedies recommended by the Local Government Ombudsman be accepted and the officers' actions already taken and proposed to be taken as set out in this report are endorsed.
- (3) That this report be adopted as the Cabinet's formal response as required under s.5A of the Local Government and Housing Act 1989 and distributed to all members of the authority by the Monitoring Officer.
- (4) That this report be adopted as the Council's formal response under s.31 of the Local Government Act 1974 and the Ombudsman be notified of the action the Council taken by the Director of People

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

6. Following the Ombudsman's report and the proposed actions to be taken by the Council, Doncaster families should receive a better service when they are entitled to adaptations to their property due to the disability needs of a person living in the property.

BACKGROUND

The Complaint

7. The Local Government Ombudsman has published a report dated 25th July 2018 with a finding of maladministration causing injustice. This followed a complaint by Miss X that the Council had taken too long to provide accommodation that met the needs of her disabled son, Y. This was both before and since it moved her to her current address. Before the house move, Miss X says the Council gave her false and incorrect information about Disabled Facilities Grants (DFGS); and that an occupational therapist (OT) had told her the council no longer funded DFGS. Miss X also complained that she was only allowed to bid on parlour-style houses.
8. After the move, Miss X says an OT told her that she could not have a DFG to adapt her current property as it had already been adapted even though those adaptations did not meet Y's needs. She stated the Council delayed offering her a DFG; delayed carrying out the work; and at first offered her an extension that was smaller than the OT recommended.

Background to complaint

9. Miss X and her partner together have five children. One of them, Y, has severe disabilities and has frequent hospital admissions and appointments. He is doubly incontinent, requires tube feeding, cannot walk or move himself and must be lifted or hoisted for all transfers. His family provides for all his basic needs, personal care and toileting.
10. Miss X and her family lived in private rented housing that did not meet Y's assessed needs. There were problems with lifting and bathing him. It would have needed adaptations and an extension. Various assessments were made and the family placed on its accessible housing register in November 2014. However there was only one opportunity to bid for a house that would be

fit for the family's needs in 19 months. Since then, the family had not had the adaptations they need to care for Y properly. The records show a number of services involved with recommendations made but no solution arrived at. The Council confirmed it would not consider adapting the property via DFGs as the tenancy was not secure for five years and the property was in poor condition. The Ombudsman saw no evidence the Council carried out any adaptations to the property to meet the family's needs in caring for Y other than supplying a stair-climber device.

11. The family moved to a property rented from the Council in August 2017 after their landlord began eviction proceedings. The ground floor room in the new property where Y was to sleep was too small to store the specialist equipment needed to look after him. The property also needed work to improve the bathing facilities downstairs, which was important because of Y's incontinence. There is evidence of disagreement over the size of the extension that was required for Y. Eight months after the OT assessment work has not commenced. Miss X reported there was still no hoist in the downstairs bathroom and she still has to lift Y several times each day.

Ombudsman's Conclusions

12. The Ombudsman concluded that apart from one opportunity to bid on a property Miss X might have missed in December 2016, she had no other opportunity to obtain housing fit for the family's needs between 1 January 2015 and August 2017. Since then, the family has not had the adaptations they need to care for Y properly. The Ombudsman states it is a matter of one person's word against another's if anyone from the Council told Miss X the Council no longer funded DFGs and whether anyone told her she could not have a DFG because the new property had already been adapted for someone else. However Y's needs and those of his family in caring for him are beyond doubt. The Council had assessed them in March 2014 but took over three years to find a property that would meet the family's needs; failed to meet the family's needs in a temporary way while it was trying to find a permanent solution; considered tenure, which was irrelevant, in deciding it could not meet the needs it identified; and failed to explain in the panel's decision why it decided to go against the professional recommendations of the OT. The Ombudsman concludes that all this was fault amounting to an avoidable delay of over three years. It was clear from the outset in August 2017 that the new property would need adaptations. The Ombudsman also concludes that the fact that the adaptations recommended more than eight months ago were not likely to be completed for some time to come is also fault, that the current state of affairs is the result of fault by the Council. He also notes that the further delay is likely to be considerable as the main building work is still to be done.

Ombudsman Decision

13. The Ombudsman has decided that the Council's delay has meant Miss X and her family have lived in accommodation unsuitable for Y's needs for over three years and will do so until all the adaptations are ready. This loss of amenity has had negative effects on the family, which are injustice. The Ombudsman considers that repeatedly lifting Y can only have worsened Miss X's back pain. This was injustice in the form of risk of harm and some likely actual harm. He concludes that the Council's failure to act has also caused the family significant distress over more than three years commenting that Miss X, and to some extent other members of the family, have had to deal with a burden they should

not have had to deal with while also caring for Y. This significant distress over a long period was injustice.

14. The Ombudsman found that the Council was at fault leading to avoidable delay as it:
 - (1) took over three years to find a property that would meet the family's needs;
 - (2) failed to meet the family's needs in a temporary way while it was trying to find a permanent solution;
 - (3) considered tenure, which was irrelevant, in deciding it could not meet the needs it identified; and
 - (4) failed to explain in the panel's decision why it decided to go against the professional recommendations of the OT.

15. The complaint is in part historic, however the Ombudsman felt that the difficulties Miss X has experienced in caring for Y in unsuitable accommodation are such that it would have been more difficult than usual for her to complain and so the Ombudsman considered matters since 1 January 2015, approximately a year before she complained to the council.

Ombudsman's Recommendations

16. To remedy the injustice caused by fault, the Ombudsman recommends the Council, within three months of the date of the report:
 - (1). apologises to Miss X and her family for the injustice it has caused them by failing to meet Y's needs for more than three years;
 - (2) provides the family with a surfaced drive wide enough to accommodate their vehicle and to allow Y's wheelchair to pass to reach the house;
 - (3) funds a weekend break or short break for the family up to a value of £1500. This is because the previous recommendation meets a likely need the Council might ordinarily have to consider even had the injustice caused by fault not occurred;
 - (4) starts the building work immediately to achieve a situation where Y has full wheelchair access to the ground floor of the property and can be hoisted for all transfers into and out of bed and for bathing so that family members no longer have to lift him for these; and
 - (5) reviews its policies and procedures to ensure that it fully meets its duties to disabled children and their families under the Children Act 1989 and the Chronically Sick and Disabled Persons Act 1970 in arranging adaptations to housing. This should ensure that it bases decisions on need rather than tenure.

Council Response

17. The Council fully accept the Ombudsman's conclusions and recommendations. Officers have visited the family and offered a verbal apology and a formal letter has been issued to the family. Officers have also been on site with the architect, adaptations team and OT with the family to ensure they are happy with the plans for the extension and have shared timescales with them. The driveway has been measured and this will be included in the building works specification. The Adaptations manager has been keeping the family up to date on progress weekly and where any changes to the works have had to be made the family have been consulted. The tender for the work has now been awarded and the building will commence this month. Other adaptations not covered in the LGO report have also been carried out. Short breaks have been discussed with the family and they are looking into this and a further assessment has been carried out taking into account Miss X needs as a carer for Y.
18. In terms of the wider recommendations a rapid improvement plan has been put in place with clear milestones and oversight by senior management. A new Adaptations Policy has been produced which incorporates a new Adaptations Panel process. A review of the end to end housing adaptations process has been undertaken and some immediate improvements made. Screening of all new referrals is now undertaken and any housing adaptations prioritised. The decision making panel have also been mandated to ensure that adaptations are tracked and where there are blockages they take immediate action. Waiting lists have been scrutinised and any families awaiting adaptations have been contacted to ensure any risks minimised whilst awaiting for a suitable property or for adaptations.

OPTIONS CONSIDERED

19. As this is an Ombudsman's report finding maladministration with injustice, the process for reporting the decision must be followed. The Council does not legally have to follow the Ombudsman's recommendations, but it is considered it is appropriate to do so.

REASONS FOR RECOMMENDED OPTION

20. There is no reason not to follow the recommendations from the Ombudsman

IMPACT ON THE COUNCIL'S KEY OUTCOMES

21.

	Outcomes	Implications
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none">• Every child has life-changing learning experiences within and beyond school• Many more great teachers work in	<p>The actions to be taken as detailed in paragraph 13 will ensure that children are better protected in vulnerable circumstances.</p>

	<p>Doncaster Schools that are good or better</p> <ul style="list-style-type: none"> • Learning in Doncaster prepares young people for the world of work 	
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>The actions as detailed in paragraph 13 will ensure that the most vulnerable families receive the help they are entitled to promptly.</p>

RISKS AND ASSUMPTIONS

22. The Ombudsman has identified maladministration with injustice and it is strongly recommended that Cabinet accept the recommendations as failure to do so, without a strong legal basis, would bring the Council into disrepute.

LEGAL IMPLICATIONS Officer Initials HP Date 20.08.18

23. Under s.5 of the Local Government and Housing Act 1989 the Monitoring Officer is under a duty to present a report to the Cabinet in the event of a finding of maladministration in respect of an executive function and the Cabinet is under a duty to consider that report. This report discharges that duty. Under s.5A the Cabinet is obliged to consider the report and prepare a report which specifies:- (a) what action (if any) the executive has taken in response to the report; (b) what action if (any) the executive proposes to take and when; (c) the reasons for taking the action or, as the case may be, for taking no action.
24. As soon as practicable after the preparation of such a report, it must be sent to each member of the authority by the Monitoring Officer. These duties are reflected in the recommendations. As required by the Act, the Head of Paid Service and the Section.151 officer have been consulted in the preparation of this report. In addition to the Section.5 requirements, S.31 of the Local Government Act 1974 provides that where the Ombudsman reports that there has been maladministration, the report shall be laid before the authority concerned and that it shall be the duty of that authority to consider the report and within 3 months of the date of receipt of the report to notify the Ombudsman of the action which the authority has taken or which it proposes to take. The Ombudsman has further powers available in the event that he is dissatisfied with the authority's response.

FINANCIAL IMPLICATIONS [Officer Initials EP Date 22/08/18]

25. The cost of any adaptations resulting from this report's recommendations will need to be contained within the existing £2.27m DFG capital budget for 2018/19.

The one-off payment of £1,500 to the family will be charged to the Occupation Therapists revenue budget.

HUMAN RESOURCES IMPLICATIONS

26. None associated with this report.

TECHNOLOGY IMPLICATIONS

27. None associated with this report.

HEALTH IMPLICATIONS

28. None associated with this report.

EQUALITY IMPLICATIONS HP Date 20.08.18

29. The adoption of the wider recommendations of the Local Government Ombudsman further enhance the provision of services delivered by Adult Health and Wellbeing Department.

CONSULTATION

30. The report has been shared with the Chief Executive, the Monitoring Officer, The Section 151 Officer and the Director of People.

BACKGROUND PAPERS

Report of the Local Government Ombudsman.

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**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
Doncaster Metropolitan Borough Council
(reference number: 17 013 347)**

25 July 2018

The Ombudsman's role

For 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Miss X	The complainant
Y	Her son

Report summary

Children's services

Miss X complains about the Council's failure to meet her disabled son's needs by taking too long to re-house her family from a property that could not be adapted, then by delaying carrying out adaptations to their current property.

Finding

Fault found causing injustice and recommendations made.

Recommendations

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet, or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

To remedy the injustice caused by fault in this case, we would normally recommend a monetary payment. This injustice is in the form of distress caused by the Council's failure to act to help the family and the physical effect on Miss X of having to lift Y repeatedly when he needs a hoist. However, Miss X has told us any monetary payment may affect the family's entitlement to benefits. Therefore, we have made an alternative recommendation in line with Miss X's request.

To remedy the injustice caused by fault, we recommend the Council, within three months of the date of this report:

- apologises to Miss X and her family for the injustice it has caused them by failing to meet Y's needs for more than three years;
- provides the family with a surfaced drive wide enough to accommodate their vehicle and to allow Y's wheelchair to pass to reach the house;
- funds a weekend break or short break for the family up to a value of £1,500. This is because the previous recommendation meets a likely need the Council might ordinarily have to consider even had the injustice caused by fault not occurred;
- starts the building work immediately to achieve a situation where Y has full wheelchair access to the ground floor of the property and can be hoisted for all transfers so that family members no longer have to lift him for these; and
- reviews its policies and procedures to ensure that it fully meets its duties to disabled children and their families under the Children Act 1989 and the Chronically Sick and Disabled Persons Act 1970 in arranging adaptations to housing. This should ensure that it bases decisions on need rather than tenure. It should tell us within a further three months of the action it has taken as a result.

The Council has accepted these recommendations.

The complaint

1. The complainant, whom we shall call Miss X, complains the Council has taken too long to provide accommodation that meets the needs of her disabled son, Y. This was both before and since it moved her to her current address.
2. Before the house move, she says the Council gave her false and incorrect information about disabled facilities grants (DFGs). She says occupational therapists told her the Council no longer funded DFGs. She also says she was only allowed to bid on parlour-style houses.
3. After the move, she says an occupational therapist (OT) told her on 8 August 2017 she could not have a DFG to adapt her current property as it had already been adapted even though the adaptations did not meet Y's needs. She says the Council delayed offering her a DFG, delayed carrying out the work and at first offered her an extension that was smaller than the OT recommended.

Legal and administrative background

4. We investigate complaints about 'maladministration' and 'service failure'. In this report, we have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
5. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
6. Under the information sharing agreement between the Local Government and Social Care Ombudsman and the Office for Standards in Education, Children's Services and Skills (Ofsted), we will share this report with Ofsted.
7. Councils have an underlying primary duty under the Children Act 1989 to meet the assessed eligible needs of a disabled child.
8. Section 2 of the Chronically Sick and Disabled Persons Act 1970 sets out the duties of councils to arrange for adaptations to a person's home to secure his or her greater safety, comfort or convenience.
9. Councils can arrange for adaptations to properties either via DFGs or by carrying out works themselves. This can include building, buying or converting properties. Any adaptations carried out under a DFG must be necessary and appropriate, reasonable and practical to carry out. Adaptations carried out for a child must not be means-tested.
10. Non-statutory guidance, (*Home Adaptations for Disabled People: A Good Practice Guide, 2013*), states that access to adaptations should not depend on housing tenure. The same guidance states that 95% of adaptations should be complete within 150 days. Allowing for these to be working days, this is about seven months.

How we considered this complaint

11. We have produced this report after examining relevant files and documents.

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12. Although the complaint is in part historic, the difficulties Miss X has experienced in caring for Y in unsuitable accommodation are such that we feel it would have been more difficult than usual for her to complain. We have therefore decided to consider matters since 1 January 2015, which is about a year before she complained to the Council.
 13. We gave Miss X and the Council a confidential draft of this report and invited their comments. The comments received have been taken into account before the report was finalised.

What we found

Background

14. Miss X and her partner together have five children. One of them, Y, has severe disabilities and has frequent hospital admissions and appointments. He is doubly incontinent, requires tube feeding, cannot walk or move himself and must be lifted or hoisted for all transfers. His family provides for all his basic needs, personal care and toileting.

Events before the family moved house: January 2015 to August 2017

15. Miss X and her family lived in private rented housing that did not meet Y's assessed needs. There were problems with lifting and bathing him. It would have needed adaptations and an extension. In March 2014, an OT assessed the family's needs. The OT decided they needed a three-bedroom parlour style house or a four/five-bedroom house. Parlour-style houses have two downstairs rooms, which increases the potential number of bedrooms if one of them is converted. Councils often use this type of house for families where a member has a disability so that person has a ground floor bedroom. It is also easier to add a bathroom to the ground floor.
16. The Council placed the family on its accessible housing register in November 2014.
17. An internal Council email noted on 17 February 2015 that Miss X had widened her areas of preference. This included 10 areas. She had rejected one. The Council provided a stair-climber device to minimise the need to carry Y upstairs. We note the family still needed to lift Y for ground floor transfers.
18. File notes record Miss X chased the Council at least twice in the autumn of 2015. An OT also asked the Council in November 2015 to consider the family for any new-built properties.
19. On 4 January 2016, an email from Miss X on the Council's files said the situation in the house was becoming tense. Emails on the files show the Council agreed to discuss the situation. The Council declined to consider a DFG application as the family did not have a secured five-year tenancy.
20. It sent a moving and handling trainer to the family on 3 February 2016.
21. A month later, on 3 March 2016 a file note stated Miss X had said she was very frustrated and the family was at breaking point.
22. On 31 May 2016, another file note stated Miss X had reported damp in the property was affecting Y's chest. The Council offered help via housing enforcement, which Miss X declined.

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23. On 12 August 2016, Miss X emailed the Council, suggesting it knocked two available semi-detached properties into one. An internal email rejected the idea, stating the last time the Council had done this it had cost £70,000.
 24. Three days later, an internal email recorded there were issues with damp in the property and this was now affecting an older child as well as Y.
 25. According to the Council's records, a Council panel considered the family's case on 31 August 2016. It said the family needed to widen its area of choice. We checked the areas the family had already named. They covered a large part of the urban area for which the Council is responsible.
 26. On 19 October 2016, the Council emailed Miss X to suggest the family moved to temporary accommodation in a private rented bungalow. Miss X emailed back to say the family could not afford the private rent. She told us the property was otherwise lovely, but the rent was well beyond their means and it was not adapted.
 27. A file note the following day recorded the panel decision that the family need to widen its area of choice. It stated the panel had said there was nothing it could do. A social worker confirmed the areas the family would consider were already wide and added, "I am at a loss as to what I can do to support this family. [Y] has been hospitalised 3 times in the last 2 months because of medical issues."
 28. A file note from 15 December 2016 recorded a four-bedroom property was available on general let, but the family did not bid. We have not seen any evidence either way. We asked Miss X. She said she had bid on many properties over the period of nearly three years, but it was possible she had missed one.
 29. The family moved to a property rented from the Council on 9 August 2017 after their landlord began eviction proceedings.
 30. We asked the Council if it could have adapted the property the family was living in while they were waiting for a suitable property. It told us it did not consider doing so via DFGs as the tenancy was not secure for five years and the property was in poor condition. We have not seen any evidence it carried out any adaptations to the property to meet the family's needs in caring for Y other than supplying the stair-climber device.
 31. Miss X says an OT told her the Council no longer funded DFGs. She also says an OT told her she could not have a DFG because the new property had already been adapted for someone else. The Council does not accept anyone said these things.
 32. Because of the number of children in the family, they needed four or five bedrooms. It is likely the range of houses on which Miss X could bid was limited. As stated above, parlour-style houses are often the most suitable for adaptations for families with a member with disabilities.

Events since the family moved house: August 2017 to date

33. The photographs Miss X supplied showed the ground floor room in the new property where Y was to sleep was too small to store the special equipment needed to look after him. It was not possible to move round Y's bed, which was situated across the full width of the room in front of a window. There was no hoist for transfers. Anyone lifting Y from the bed would have risked injury as it could only be accessed from one side. Miss X told us Y currently weighs 21 kilos. The property also needed work to improve bathing facilities downstairs, which was important because of Y's incontinence.

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34. An OT assessed the necessary work on 9 August 2017. She recommended a ground floor extension to Y's bedroom of four metres. This was because the confined space meant a risk of unsafe manual handling and injury to Miss X, who already had back problems.
 35. We have not seen any evidence that suggests the Council has carried out a carer's assessment for Miss X.
 36. An email of 13 October 2017 recorded that the architect preferred three metres. We have not seen any evidence to show why.
 37. A Council panel considered the OT's recommendation on 18 October 2017. It "felt the request for 4 meters [sic] was excessive". We have not seen any reason why it took this view. The panel asked the OT to provide scale drawings and to deal with the architect. The OT emailed Miss X to say the panel had agreed two metres. She later left the Council's employment and the case awaited a new OT. Meanwhile, Miss X complained to us.
 38. On 23 January 2018, a new OT decided to assess again. He decided Y needed an extension of three metres, but with an extra metre of width to allow for Y's bed. We have seen sketches of this arrangement. At 10.5 square metres (three x 3.5metres) it is 0.5 square metres larger than the extension of four by 2.5 metres Miss X wanted.
 39. At the time of publishing this report, more than 11 months after the OT assessment, the Council has not started to build the extension to Y's bedroom. Miss X still has to lift Y several times each day.

Conclusions

40. Apart from one opportunity to bid on a property Miss X might have missed in December 2016, she had no other opportunity to obtain housing fit for the family's needs in looking after Y between 1 January 2015 and 9 August 2017. Since then, the family has not had the adaptations they need to care for Y properly.
41. It is a matter of one person's word against another's if anyone from the Council told Miss X the Council no longer funded DFGs. The same holds true for whether anyone told her she could not have a DFG because the new property had already been adapted for someone else.
42. Y's needs and those of his family in caring for him are beyond doubt. The Council had assessed them in March 2014. However, the Council:
 - took over three years to find a property that would meet the family's needs;
 - failed to meet the family's needs in a temporary way while it was trying to find a permanent solution;
 - considered tenure, which was irrelevant, in deciding it could not meet the needs it identified; and
 - failed to explain in the panel's decision why it decided to go against the professional recommendations of the OT.
43. All this was fault and amounted to avoidable delay of over three years.
44. It was clear from the outset in August 2017 the new property would need adaptations. That the adaptations recommended more than 11 months ago are not likely to be completed for some time to come is also fault. There is an argument the guidance referred to in paragraph 10 is non-statutory and that the

time target referred to is for 95% of cases. But the current state of affairs is the result of fault by the Council and the further delay is likely to be considerable as the main building work is still to be done.

Injustice

45. The Council's delay has meant Miss X and her family have lived in accommodation unsuitable for Y's needs for over three years and will do so until all the adaptations are ready. It is clear this loss of amenity has had negative effects on the family. This is injustice.
46. We consider repeatedly lifting Y can only have worsened Miss X's back pain over more than three years while the Council should have acted. This is particularly so in the cramped conditions in Y's current bedroom, given his weight and the lack of any hoist. Any lifting in the previous property would have had at least some of the same effects. This was injustice in the form of risk of harm and some likely actual harm.
47. But the Council's failure to act has also caused the family significant distress over more than three years. Miss X repeatedly chased the Council and stated the family was being badly affected by its situation. And the Council's own recorded views acknowledge this. She told us that families with severely disabled children should not have to live like this. We note that Y's medical admissions to hospital are frequent, to the extent that some of our telephone calls to Miss X have been answered while she has been at the hospital. Miss X, and to some extent other members of the family, have had to deal with a burden they should not have had to deal with while also caring for Y. This significant distress over a long period was injustice.
48. We do not find the Council failed to deal with the reported damp in the first property. This is because the Council offered help with housing enforcement that Miss X could have taken up. Despite this, we can understand why, in hoping the family would soon move, she focussed on that rather than trying to improve an unsuitable property the Council would not adapt.

Recommendations

49. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet, or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
50. To remedy the injustice caused by fault in this case, we would normally recommend a monetary payment. This injustice is in the form of distress caused by its failure to act to help the family and the physical effect on her of having to lift Y repeatedly when he needs a hoist. However, Miss X has told us any monetary payment may affect the family's entitlement to benefits. Therefore, we have made an alternative recommendation in line with Miss X's request.
51. To remedy the injustice caused by fault, we recommend the Council, within three months of the date of this report:
 - apologises to Miss X and her family for the injustice it has caused them by failing to meet Y's needs for more than three years;
 - provides the family with a surfaced drive wide enough to accommodate their vehicle and to allow Y's wheelchair to pass to reach the house;

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- funds a weekend break or short break for the family up to a value of £1,500. This is because the previous recommendation meets a likely need the Council might ordinarily have to consider even had the injustice caused by fault not occurred;
 - starts the building work immediately to achieve a situation where Y has full wheelchair access to the ground floor of the property and can be hoisted for all transfers so that family members no longer have to lift him for these; and
 - reviews its policies and procedures to ensure that it fully meets its duties to disabled children and their families under the Children Act 1989 and the Chronically Sick and Disabled Persons Act 1970 in arranging adaptations to housing. This should ensure that it bases decisions on need rather than tenure. It should tell us within a further three months of the action it has taken as a result.

52. The Council has accepted these recommendations.

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