

Scottish Parliament Region: Mid Scotland and Fife

Case 200503422: Fife Council

Summary of Investigation

Category

Local government: Central heating upgrade

Overview

The complainant (Mr C) raised concerns that funding for the replacement and upgrade of his central heating was withdrawn by Fife Council (the Council) without justifiable reasons and that the Council had not handled his complaint according to their complaints procedure.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) unjustifiably withdrew their offer to fund the replacement and upgrade of Mr C's central heating system (*upheld*); and
- (b) failed to handle Mr C's complaint according to their complaints procedure and to adequately respond to Mr C's appeal against their decision to withdraw funding (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) should have a process in place to manage situations where it is difficult to come to a mutually suitable arrangement with HELP beneficiaries;
- (ii) should offer to fund the installation, in Mr C's property, of the central heating system suggested to him in their letter of 2 March 2005 and give Mr C a specific timescale to consider whether he wants to go ahead with this proposal;
- (iii) should apologise for their failure to respond to Mr C's suggestions;
- (iv) should remind officers of the importance of responding fully to correspondence received and, additionally, that any response should be addressed to the person who makes the complaint;
- (v) should ensure that all complaints are fully investigated and responded to;

- (vi) should apologise to Mr C for their failure to adequately respond to his appeal, their delay in providing a substantive response to Mr C's complaint under the second stage of their complaints process and their failure to take all circumstances of the complaint into account when carrying out their investigation.

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

Main Investigation Report

Introduction

1. On 20 March 2005 the Ombudsman received a complaint from a man, referred to in this report as Mr C, that Fife Council (the Council) had withdrawn their offer to upgrade his central heating under their HELP Programme (the Programme) after a breakdown in communication between the Council, Mr C and the Contractor selected to perform the work (the Contractor). He also complained that the Council had not adequately handled his complaint to them. Mr C made a formal complaint to the Council about this matter on 29 June 2005. The Council's complaints process was exhausted on 27 January 2006 when Mr C received a reply from the Chief Executive. Mr C was referred to this office on 14 March 2006.

2. The complaints from Mr C which I have investigated are that the Council:
- (a) unjustifiably withdrew their offer to fund the replacement and upgrade of Mr C's central heating system; and
 - (b) failed to handle Mr C's complaint according to their complaints procedure and to adequately respond to Mr C's appeal against their decision to withdraw funding.

Investigation

3. This investigation is based on the correspondence between Mr C, the Council and the Contractor and on the Council's complaints file on this matter. I have also reviewed the Council's description of the Programme and the Council's complaints procedure.

4. 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.

HELP Programme

5. HELP is a programme which aims to improve the quality of life of those people with illnesses which are exacerbated by poorly heated homes. The project is funded by the Council through its Housing Energy Management Service (HEMS). The project is a partnership between the Council and the Contractor.

6. An employee of the Contractor makes a visit to successful applicants to discuss the requirements for the central heating system and collect necessary details to be able to design the proposed system. The position of the different parts of the new central heating system will be agreed before any work commences. The central heating system will be designed to meet the user's needs, but would typically consist of a condensing combi-boiler and seven radiators.

7. Published information about the Programme gives no indication of time limits, or of how any disputes may be decided or appealed.

Background

8. Mr C and his wife care for their disabled son (Mr A) whose requirements for hot water and heating are high due to his medical needs. The Council accepts that Mr A requires a near constant supply of hot water and that Mr C's current central heating system cannot cope with this demand. They accept that it is to Mr A's advantage that the system be upgraded. The disagreement between Mr C and the Council was not about the nature of Mr A's requirements or his medical needs but was about the details of the new central heating system which was to be installed. Mr C is an engineer with specific expertise in boiler installation, maintenance and safety.

(a) The Council unjustifiably withdrew their offer to fund the replacement and upgrade of Mr C's central heating system.

9. Mr C applied in October 2004, under the Programme, to have his central heating upgraded. His application was approved in November 2004.

10. Mr C told me that he discussed his household's requirements with a HEMS Officer (Officer 1) and it was agreed that a modern, efficient boiler should be installed in the same site as the existing boiler along with a larger storage tank. Additionally existing radiators were to be replaced and the system extended to upstairs.

11. The Contractor visited on 13 December 2004 to survey Mr C's house. In response to this visit Mr C wrote to the Council expressing concerns about the discussion with the Contractor. He felt that the Contractor acted in a way which

gave the impression that he had been instructed to install a combi-boiler. This option was unsuitable for several reasons and Mr C wrote to Officer 1 to express his discontent and suggest a more suitable alternative

12. Officer 1 and the Contractor visited Mr C on 7 January 2005 to discuss potential central heating systems. The Contractor wrote to Mr C on 3 February 2005 suggesting brief installation details and asking Mr C to confirm that these were suitable. The Contractor suggested installing a gas fired system boiler and dual coil hot water cylinder in the alcove in Mr C's study. No diagram was enclosed with this letter. Mr C requested information about the external dimensions of the boiler, the site of the storage cylinder, the electrical supply and whether a second storage tank would be installed.

13. Mr C wrote to Officer 1 on 6 February 2005 to ask whether the installation included a second hot water storage cylinder. He consented to locating the boiler in the study as suggested by the Contractor. Mr C wrote to Officer 1 again on 28 February 2005 to say that he had not received any diagrams of the system from the Contractor. He also requested confirmation of several details and that the possible location of the boiler in the cellar be reconsidered.

14. The Contractor sent the diagrams on 2 March 2005 and stated that the boiler could not be installed in the basement because it had a fanned flue which could not be installed into the chimney. The Contractor wrote again on 30 March 2005 to answer the queries which Mr C had put to Officer 1. He wrote that there was no provision for a second hot water cylinder. He also reiterated that the option suggested by Mr C for installing the boiler in the cellar was not suitable for the flue. He asked for Mr C to confirm that he is in agreement with the proposed system so that they could arrange a suitable installation date.

15. The Contractor wrote to Mr C again on 28 April 2005 as they had not heard from him since their previous letter. They wrote that Officer 1 had told them that the installation would have to be completed by 27 May 2005 in order to qualify under the HELP contract.

16. Mr C wrote to Officer 1 on 4 May 2005 to state that several of his questions remained outstanding. He asked that the Council consider granting him a time

extension as his wife had recently been hospitalised several times and it was difficult for him to arrange respite care for his son at short notice. He also wrote that he wished to repair his existing solar panels and use them with the boiler.

17. Officer 1 replied to Mr C on 10 May 2005 and wrote that the boiler could easily be integrated with Mr C's solar panels should he choose to reinstate them. He stated that the alcove in the study was a suitable location for the water cylinder as there was sufficient room and would simplify integration with the solar panels. He asked Mr C whether he could specify an alternative that would not incur significant additional costs or system losses. He reiterated that the Programme would not fund a second hot water cylinder. Officer 1 wrote that the date for installation would be arranged to fit in with Mr C's son's respite. The dimensions of the boiler and hot water cylinder were sent to Mr C on 11 May 2005.

18. Mr C wrote to Officer 1 on 16 May 2005. He suggested two alternatives for the location of the hot water cylinder. Neither suggestion included locating the boiler in the cellar. He informed Officer 1 that he had provisionally booked respite for his son from 1 to 21 August 2005.

19. Mr C wrote again to Officer 1 on 5 June 2005 to bring to his attention, two telephone conversations with the Contractor on 31 May 2005. He stated that the Contractor had urged his wife to give him an immediate decision about the installation but she explained to him that there were still some outstanding issues to be resolved and that Mr C was unavailable. Mr C returned the call later that day. Mr C described how the conversation became heated and he terminated the call. He asked that Officer 1 reconsider any decision that may have been made to withdraw funding for his central heating.

20. As Mr C had received no reply by 29 June 2005, he wrote to the Investment and Environment Manager (Officer 2) to appeal against any decision which may have been made to withdraw funding. Mr C had not, at this stage, been told whether or not the funding had been withdrawn. Mr C wrote to Officer 2 again on 24 August 2005 as he had not received a reply to his appeal. He requested that this matter be taken as a complaint. (The complaints process is addressed under complaint (b) below.)

21. On 21 December 2005 Mr C was formally informed in a letter from the Head of Housing (Officer 3) that the funding which had been earmarked for his central heating system had been allocated to another client from the waiting list.

(a) Conclusion

22. Mr A had more severe medical needs than most clients of the Programme and it was clear at an early stage that this would not be a typical installation under the programme. This was recognised because the projected costs of the installation were over £4000 as compared to an average cost of £2500. Additionally, Mr C had specific ideas about the type of system which should be installed. I accept that it may have been difficult for the Council to reach an agreement with Mr C under these circumstances particularly as Mr C also wished to integrate his defunct solar panels into the set up.

23. The Council did make some effort to collaborate with Mr C to come to an agreement. Officer 1 and the Contractor held a meeting with Mr C and also spoke and corresponded with him on several occasions. There was some delay due to the fact the Council and the Contractor took some time to answer certain specific queries which Mr C had about the system and to send out a detailed description of the proposed system. However, there were also delays on the part of Mr C in responding to the Contractor; this was due to the fact that his wife was hospitalised on several occasions.

24. The information published about the Programme gave no indication that there might be time limits applied. A time limit was first mentioned in the letter of 28 April from the Contractor to Mr C when Mr C was advised that the installation would have to be completed by the end of May 2005 in order to qualify for funding under the Programme. This was confirmed by Officer 1 in his letter of 10 May 2005.

25. On 10 May 2005, Officer 1 invited Mr C to suggest alternative possibilities for the proposed system. This would imply that the discussion about the specifications of the system was ongoing. Mr C sent two further suggestions on 16 May 2005 and Officer 1 told him that he had forwarded this to the Contractor. The Council and the Contractor did not enter into any further discussion about Mr C's suggestions.

26. Mr C did not receive any formal notification that the Council had withdrawn funding until the letter from Officer 3 on 21 December.

27. The circumstances of this case were clearly unusual, and the Council had not foreseen a discussion such as happened here. There were some delays in responding by all parties. I am concerned by the fact that in his letter of 10 May 2005 Officer 1, as well as giving a time limit before the offer would be withdrawn, also invited further suggestions. However, when Mr C did make such suggestions there was no response, nor was Mr C properly told whether funding had been withdrawn. Both these should have happened, and in the circumstances I uphold the complaint.

(a) Recommendation

28. The Ombudsman recommends that the Council should have a process in place to manage situations where it is difficult to come to a mutually suitable arrangement with HELP beneficiaries. This could include notifying the user of the details of the Council's final installation offer and giving them a timescale for accepting it, after which funding would be withdrawn. Furthermore, the Council should offer to fund the installation, in Mr C's property, of the central heating system suggested to him in their letter of 2 March 2005 and give Mr C a specific timescale in which to consider whether he wants to go ahead with this proposal. Additionally, the Council should apologise for their failure to respond to Mr C's suggestions which were submitted as a result of the invitation in their letter of 10 May 2005.

(b) The Council failed to handle Mr C's complaint according to their complaints procedure and failed to adequately respond to Mr C's appeal against their decision to withdraw funding

29. The published information about the Programme did not offer any mechanism for resolving disputes or appealing decisions.

30. In his letter of 10 May 2005, Officer 1 informed Mr C that if no agreement on the central heating system was reached by the end of that month, the offer would be withdrawn. At Mr C's request, he also told Mr C details of how he could appeal the decision by writing to Officer 2.

31. No indication was ever given to Mr C as to when or how his appeal would be responded to.

32. Mr C wrote to Officer 2 on 29 June 2005 to appeal against the presumed decision to withdraw the offer. Officer 2 called to speak to Mr C on 5 July 2005, however, Mr C was in hospital at the time and Officer 2 spoke to Mr C's wife who told him that Mr C was unavailable to discuss the appeal due to an accident he had suffered earlier that week. There was no written response to Mr C on his appeal.

33. As Mr C had not received a response, he wrote to Officer 2 again on 24 August 2005 and asked that the matter be considered a complaint. Officer 2 responded in a letter on 26 August 2005 and stated that his telephone call was intended as a response and acknowledgement to Mr C's appeal. He informed Mr C that the complaint had been passed to senior management.

34. Mr C received an acknowledgement on 5 September 2005 and was told that he would receive a full response in 28 days. On 9 September the Council's Head of Housing, Officer 3 wrote a short letter to Mr C. In this, he acknowledged Mr C's letter of 24 August 2005 and referred him to Officer 2's letter of 26 August 2005 'advising you of the position and reminding you of his acknowledgement and telephone call to your home on 29 June'.

35. Mr C wrote again on 3 December 2005 as he had not received a full response to his complaint. The Chief Executive wrote to Mr C on 8 December 2005 pointing out that Officer 3 had written to Mr C on 9 September 2005. The Chief Executive stated that he had asked Officer 3 to furnish Mr C with a detailed response. Mr C received a response from Officer 3 on 21 December 2005. Officer 3's response stated that Mr C had continued to make impractical and, in some instances, illegal suggestions in terms of installation and the Council had tried to address his proposals and concerns and had made every effort to meet the individual need of the household. He wrote that Officer 2, in his letter dated 16 May 2005, had asked Mr C to contact the Contractor by the end of May 2005 so that they could reach a final agreement. In fact, Officer 2's letter stated that Mr C's proposals would be considered by the Contractor and asked that any future correspondence be sent directly to the Contractor. Officer 3 additionally informed Mr C that the funding

earmarked for his central heating had been allocated to another client from the waiting list.

36. Mr C wrote again on 24 December 2005 and asked that his complaint be escalated to the final stage. He received a letter on 5 January 2006 asking him to furnish the specific details of the complaint so that it could be fully investigated. He telephoned on 27 January 2006 and explained that he wanted clarification of why his suggestions were illegal as he had taken advice from the boiler manufacturer and also that the Contractor had not properly considered his suggestions of 16 May 2005 and had been rude to him on the telephone. Mr C received a reply from the Chief Executive on 17 February 2006. This letter focused on the fact that Mr C had originally wanted to locate the boiler in the cellar and that this was not a possibility. He reiterated that housing staff had spent considerable time considering Mr C's proposals but that these were not always practical or legal.

37. Mr C wrote again on 28 February 2006 to raise outstanding points of complaint. He received a reply from the Chief Executive on 13 March 2006 informing him that the complaints procedure had been exhausted and referred him to the Ombudsman.

(b) Conclusion

38. Officer 2 maintains that his telephone call of 5 July 2005 was an acknowledgement and response to Mr C's appeal, however, he stated in his letter of 26 August 2005 that the extent of the conversation with Mr C's wife was her informing Officer 2 that Mr C was in hospital. There is no evidence that he provided a response to Mr C's wife and, in any case, any response should have been addressed to Mr C, who had made the appeal. I do not accept that this telephone call was an acceptable response to Mr C's written appeal of 29 June 2005 and, therefore, uphold this part of the complaint.

39. Mr C did receive a response to his complaint from Officer 3 within the 28 days specified in the complaints process. This response did not address or answer Mr C's complaint and simply refers him back to Officer 2's letter, which in turn referred him back to the telephone call of 5 July 2005. This response was woefully inadequate especially since the telephone call had been taken by Mr C's wife, does

not appear to have addressed the issues raised in Mr C's appeal and, furthermore, was not made as part of the complaints process.

40. Officer 3 did eventually, upon Mr C's request, provide a full response. This letter addresses the complaint to some extent but focuses on Mr C's suggestion of locating the boiler in the cellar rather than his final suggestions which were made as a result of Officer 1's invitation to do so. Officer 3 does not uphold the complaint and seems to attribute the blame to Mr C for not contacting the Contractor to reach an agreement. Although some of Mr C's earlier suggestions may have been impractical, he did accept the Council's suggestion that the boiler be located in the study and made further suggestions based on this. Officer 3, in writing his response, did not respond to all the circumstances of the complaint.

41. The Chief Executive's response to Mr C's complaint was provided within an appropriate timescale and, although it did answer the specific points made by Mr C, it seemed not to take the full circumstances into account.

42. The appeal to Officer 3 appears to have been dealt with on an ad hoc basis and was not properly responded to. The initial response under the second stage of the procedure was unacceptable and further responses seemed not to take into account all circumstances and focused on certain events. I, therefore, uphold this part of the complaint.

(b) Recommendation

43. Council officers should be reminded of the importance of responding fully to correspondence received and additionally that any response should be addressed to the person who makes the complaint. Furthermore, any complaints made to the Council should be fully investigated and responded to. Officers investigating and responding to complaints should ensure that they have read all relevant correspondence and are fully aware of the circumstances leading to the complaint. Additionally, the Council should apologise to Mr C for Officer 2's failure to respond to his appeal, Officer 3's delay in providing a substantive response to his complaint and their failure to take all circumstances of the complaint into account when carrying out their investigation.

30 January 2007

Explanation of abbreviations used

Mr C	The complainant
The Council	Fife Council
The Contractor	The Contractor who had been selected to carry out work under the HELP Programme
HEMS	Housing Energy Management Service
Mr A	Mr C's son
The Programme	HELP Programme
Officer 1	An officer of the Council in the HEMS
Officer 2	The Council's Investment and Environment Manager
Officer 3	The Council's Head of Housing

Glossary of terms

HELP Programme

Fife Council Programme to fund the upgrade of central heating systems for people with illnesses exacerbated by poorly heated homes.