

Scottish Parliament Region: Central Scotland

Case 200400549: South Lanarkshire Council

Summary of Investigation

Category

Local government: Housing; Capital Works; Renovation as part of Investment Programme

Overview

The complaint concerns damage to the living room wooden floor following water penetration during the course of renovation works.

Specific complaint and conclusion

The complaint which has been investigated is that the Council refused to replace a wooden floor that allegedly was damaged by water penetration into the living room, caused by Contractors acting on behalf of the Council in the course of a Capital Repairs Programme (*upheld*).

Redress and recommendation

The Ombudsman recommends that in order to restore Ms C's living room to the condition it was in before the flooding occurred, the Council makes arrangements to replace the wooden floor and at the same time fulfils their previous offer to Ms C, to replace the living room ceiling and decorate the room.

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

Main Investigation Report

Introduction

1. On 8 August 2005, the Ombudsman received a complaint from a woman (referred to in this report as Ms C) against South Lanarkshire Council (the Council).
2. Contractors carried out work for the Council and caused water ingress to the complainant's flat on two occasions.
3. The Council have acknowledged these episodes and offered to replace and decorate the living room ceiling and re-decorate the room, which included the provision of alternate accommodation for the duration of this work.
4. Ms C said the water ingress also damaged the wooden floor in her living room.
5. The Council denies this.
6. The complaint from Ms C which I have investigated, is that the Council refused to replace a wooden floor that allegedly was damaged by water penetrating into the living room, caused by Contractors (the Contractors) acting on behalf of the Council in the course of a Capital Repairs Programme.

Background

7. On 4 and 6 October 2003, Ms C's flat was flooded in the course of a Capital Repairs Programme.
8. Ms C and her partner (referred to in this report as Mr D), said that the living room floor was damaged as the result of water penetration. This damage resulted in movement (creaking) of the wooden floor. They wished the floor to be replaced by the Council and the Contractors, as they have told me that the damage was caused directly by the Contractors, who the Council employed to carry out the Capital Repair work.
9. It is accepted that the flood did damage the ceiling and the Council have arranged for the living room ceiling to be replaced and the living room to be re-decorated.

10. The Council, however, have not accepted that the flood damaged the wooden floor and so they refused to replace it.

11. The Council commissioned a Cleaning Company (the Company), to inspect the wooden floor. This was carried out on 29 September 2004 and the Company submitted an Inspection Report stating 'Whole area damaged (water ingress)'. Their 'Recommended Action(s)' was - 'refit new flooring'.

12. Following the issue of the report, a meeting was held between Council Officers and the Company's flooring inspector (the Inspector) on 18 November 2004, to discuss the report of 29 September 2004. Thereafter, the Council wrote to the Company on 18 November 2004, setting out seven points which were discussed at the meeting, but no direct reference was made to the Inspector's recommendation to 'refit new flooring'. These seven points were possible reasons why water did not damage the floor and the letter included the statement that 'it was not possible to link any such movement of the wooden flooring, directly with any water ingress caused by the contractors, during the course of his operations to the fabric of the building'. The Inspector was invited to comment or make any corrections to this statement. I have seen no evidence that the Inspector did agree to this statement. It also appears that the Council did not follow this up with the Inspector and, therefore, assumed that an agreement had been reached.

13. In their letter to Ms C dated 26 November 2004, the Council concluded that 'there was no significant water damage sustained to the existing hardwood flooring, and no staining evident', concluding that no work to the wooden floor could be authorised.

Investigation

14. The investigation of this complaint involved obtaining and reading all relevant documentation, including correspondence between Ms C and the Council.

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

16. I carefully considered the Company's Inspection Report and I also reviewed documentation between the Council and the Company in relation to

their discussions and meeting, following the completion of the Report.

17. A written enquiry was made of the Council on 9 December 2005 and their response was received on 20 January 2006.

18. As part of my investigations I requested that Ms C and Mr D tried to obtain written information about the floor from the Company that originally laid it, however, it was not possible to obtain this.

19. Ms C and Mr D employed a flooring specialist (the Specialist) who inspected the wooden floor on 3 March 2006. I reviewed the Specialist's written quotation where he described the job as to 'replace hardwood floor' and this was 'due to constant water penetration coming from roof area'.

20. There is no evidence to reveal the condition of the wooden floor before the flooding on 4 and 6 October 2003.

Conclusion

21. I have carefully considered all the evidence presented by the parties and it is not entirely consistent. In the absence of any comments by the Company who originally installed the floor, I have had regard to the comments made by the Specialist when he inspected the floor on 3 March 2006 (see paragraph 19). This is not in itself proof that the condition of the living room floor, as inspected on 3 March 2006, was the direct result of water penetration into the roof space during the Capital Repairs Programme of October 2003. In the Inspector's Report of 29 September 2004 (see paragraph 11), the recommendation was to 'refit new flooring'. However, within the Council's letter to the Inspector on 18 November 2004, following their meeting on the same day, this recommendation was not directly referred to within the points the Council said were discussed. As the core of Ms C's complaint was that the Council refused to replace the wooden floor, I am puzzled that within a relatively short period of time, the Inspector's recommendations appear to have been reversed without reason and no statement was given by the Council or Inspector that acknowledged this reversal.

22. The Council have accepted that water penetration on two separate occasions damaged the living room ceiling and living room area. This must have caused considerable disruption to Ms C. The damage was sufficient for the Council to agree to replace the ceiling and re-decorate the room.

23. I have taken account of all these circumstances and I am not convinced that the water penetration, which the Council accepted had damaged the ceiling of the living room, had not also damaged the wooden floor. Both the Inspector and the specialists stated that water ingress had caused damage to the floor. Therefore, I am of the view that, on the balance of probabilities, the wooden floor was damaged by water ingress, and I uphold this complaint.

Recommendation

24. In order to restore Ms C's living room to the condition it was in before this flooding occurred, the Ombudsman recommends that the Council makes arrangements to replace the wooden floor and at the same time fulfils their previous offer to Ms C, to replace the living room ceiling and decorate the room.

23 May 2007

Explanation of abbreviations used

Ms C	The complainant
The Council	South Lanarkshire Council
The Contractor	The Contractor responsible for the repairs programme
Mr D	The complainant's partner
The Company	The Cleaning Company who inspected the floor
The Inspector	The Inspector from the Cleaning Company who inspected the floor
Officer 1	South Lanarkshire Council Development Officer
The Specialist	Flooring Specialist Ms C and Mr D employed