

Scottish Parliament Region: Mid Scotland and Fife

Case 200601777: Fife Council

Summary of Investigation

Category

Local government: Housing; repair and maintenance of housing stock

Overview

The complainant (Mr C) was a tenant of Fife Council (the Council) who reported damage to his bathroom which occurred in the course of a replacement programme. He complained that the Council's response to this was not adequate.

Specific complaint and conclusion

The complaint which has been investigated is that a contractor caused damage to Mr C's bathroom in the course of carrying out work on behalf of the Council and the Council's proposed remedy for this damage was not reasonable (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. Fife Council (the Council) undertook an extensive programme to replace bathroom fittings in parts of its housing stock early in 2006. The Council's contractors fitted the complainant (Mr C)'s new bathroom on 22 and 23 February 2006. Mr C reported a number of problems with this installation and the matter was referred to the Council's insurers. The Council did not accept liability for the damage and, after further negotiation, an offer was made by the contractor which Mr C did not consider adequate. He complained to the Council and, after receiving their response, referred his complaint to the Ombudsman on 10 November 2006.

2. The complaint from Mr C which I have investigated is that a contractor caused damage to Mr C's bathroom in the course of carrying out work on behalf of the Council and the Council's proposed remedy for this damage was not reasonable.

Investigation

3. In order to investigate these complaints, I reviewed the correspondence between Mr C and the Council and considered relevant arrangements for responding to requests such as his. I made inquiry of the Council on 11 October 2007 and received their response on 6 November 2007. I also undertook a site visit to see the damage caused to Mr C's bathroom.

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.

Complaint: A contractor caused damage to Mr C's bathroom in the course of carrying out work on behalf of the Council and the Council's proposed remedy for this damage was not reasonable

5. On 22 and 23 February 2006, contractors working on behalf of the Council carried out work to install new bathroom fittings in Mr C's house. After this work was completed, Mr C complained that there had been a number of damages to his bathroom. In particular, an extractor fan had been poorly sited, there had been damage to the wall in his shower area and areas of tiling had been damaged behind his wash basin.

6. Mr C quickly raised these matters with the Council who referred them to their insurers. The claim was acknowledged on 10 April 2006 and the Council sent their report of the incident to their insurers on 24 April 2006. The insurers informed Mr C on 4 May 2006 that the matter was the responsibility of the contractors and passed his details on to them.

7. The housing officer responsible for the repair project liaised between the contractors and Mr C and, on 8 September 2006, wrote to confirm a proposal to repair the damage. This included repairing the wall tiling, making good the plaster to a decoration standard outside the bath area and fitting tiling or a wet wall within the bath area. The Council also offered to fit tiles if Mr C supplied them.

8. Mr C did not consider this to be an adequate response, as the damaged tiling had been of a uniform design. This design was no longer available because of its age and the resulting decoration would be unsightly. Instead, he proposed that the Council should retile the entire area in new tiles of his choice or pay him £800 in compensation, which he considered a realistic amount to make good the damage.

9. The Council did not accept this alternative suggestion and confirmed that the contractor's original offer would stand.

Conclusion

10. There can be no doubt that damage occurred as a result of the contractor's work in Mr C's bathroom. Some of this damage was unsightly and some restricted his ability to use his shower. The damage seems to have been beyond the disruption to existing decoration that is to be expected when new fittings are installed. The contractor was carrying out work on behalf of the Council and it is, therefore, reasonable to assume that the Council should have had arrangements to monitor the quality of this work and to respond to any reports of damage. The Council's contract for this bathroom replacement programme did contain standard clauses which made it clear that the contractor bore liability for any damage to property that occurred in the course of the work. In addition, the contractor was obliged to ensure that they, and any sub-contractors, were suitably insured for the work they undertook.

11. The Scottish Public Services Ombudsman Act 2002 prohibits the Ombudsman from investigating any matter that relates to contracts, but it was

reasonable in this case to seek assurance that the Council had made appropriate provision for responding to reports of damage such as Mr C's. The Council had made such provision and, in Mr C's case, they actively sought to facilitate a solution between the parties. The solution that was proposed fell short of what Mr C considered to be the minimum work required to make good the damage.

12. Much of the disagreement relates to the standard of internal decoration which would have been acceptable to mitigate the damage caused to Mr C's bathroom. The unavailability of tiles to match the older tiles already in place made it more difficult to undertake satisfactory repairs to the damaged areas. Given that the damage was completely beyond Mr C's control, and was the result of work undertaken on behalf of the Council, it was appropriate for the Council to take steps to ensure that an acceptable solution could be reached. I consider that they did this and that the proposal made to Mr C was reasonable in the circumstances. I do not, therefore, uphold this complaint.

Recommendation

13. As the Council have confirmed that the original offer of a remedy to Mr C stands, the Ombudsman has no further recommendations to make.

Explanation of abbreviations used

The Council

Fife Council

Mr C

The complainant