

25 August 2022

Complaint reference:
21 014 334

Complaint against:
London Borough of Enfield

The Ombudsman's final decision

Summary: There was a delay in completing an occupational therapy assessment for Ms Y which caused avoidable inconvenience and frustration. The Council will apologise, make payments of £500 to Ms Y and £150 to Mr X for his avoidable time and trouble. It will also review procedures as described in this statement.

The complaint

1. Mr X complained for his relative Ms Y that London Borough of Enfield (the Council) took too long to complete an occupational therapy (OT) assessment for equipment and adaptations and did not say how long the wait for an assessment would be.
2. Mr X said this caused them avoidable distress, confusion and inconvenience.

The Ombudsman's role and powers

3. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word fault to refer to these. Service failure can happen when an organisation fails to provide a service as it should have done because of circumstances outside its control. We do not need to show any blame, intent, flawed policy or process, or bad faith by an organisation to say service failure (fault) has occurred. (*Local Government Act 1974, sections 26(1), as amended*)
4. If we are satisfied with an organisation's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

5. I considered the complaint to us, the Council's response to the complaint and documents in this statement. A colleague discussed the complaint with Mr X. I interviewed a service manager responsible for the Council's OT service.
6. Mr X had an opportunity to comment on my draft decision. I considered any comments received before making a final decision.

What I found

Relevant policies, law and guidance

7. *Delivering Housing Adaptations for Disabled People (2013)* is good practice guidance which we consider when we investigate complaints about delay in dealing with requests for adaptations. It defines urgent and non-urgent adaptations (urgent ones are those needed before a person can be discharged from hospital or needed because they cannot access essential facilities). The target timescales for 95 % of non-urgent adaptations are:
 - Stage 1: 20 working days from date of first contact to date of OT recommendation
 - Stage 2: 50 working days from OT recommendation to approval of scheme (grant approval or issue of works order)
 - Stage 3: 80 working days from approval of scheme to completion of works (Total time from date of request to completion – 150 working days)
8. The guidance recommends councils record dates and monitor their performance.
9. I asked the Council for its policy and procedures for prioritising cases for OT assessments and for waiting times. The Council provided me with a document called '*Single Point of Access and Locality Team Roles and Responsibilities.*' This does not give any information about how to prioritise urgent versus non-urgent cases for assessment for adaptations or give any timeframes. The Council told me the target time for the Housing Adaptations Team, which is responsible for major adaptations like walk-in shower rooms, was four to six months from the date of receiving the referral from the OT.

What happened

10. Ms Y is disabled. She lives at home with her family and does not have any funded care arranged by the Council.
11. There is a record of a phone call between Mr X and an officer about Ms Y's difficulties accessing the entrance door at the start of September 2021. The social care team placed Ms Y's case on a waiting list for an OT assessment.
12. Mr X chased the Council up at the end of September and in November he made a formal complaint. The Council's response said there was a waiting list but did not say how long it was. It also explained it had accidentally created two files for Ms Y and this caused some confusion. It has now closed one of the files.
13. Mr X complained to us in January 2022.
14. An OT assessed Ms Y in February. The outcome was Ms Y needed a level access shower, a grab rail in the existing shower and a ramp to the main entrance door.
15. The Council told me the following actions had been completed:
 - It installed a grab rail in February
 - It made a referral to the NHS physiotherapy service in March
 - It ordered a flexi ramp to assist Ms Y to get in and out of the house
 - Its OT completed an assessment for a level access shower and funding was being considered under the Disabled Facilities Grant scheme.

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16. The Council told me Ms Y's case was not an urgent one, but because of the lost time due to errors in recording, it would treat the case as a priority.
 17. A service manager told me there was a national shortage of OTs and the Council was operating at 40% capacity for the last three years. She said there was a permanent advert, but there had not been any applications. The service manager also went on to explain the Council was reviewing procedures to get a better overview of priority versus non-priority cases and work had been started on a letter to send to all cases at first point of contact. This letter would set out approximate waiting times.
 18. The service manager also explained:
 - Ms Y's case was complex because of the configuration and layout of her bedroom and ensuite and the front access was also complicated because of pipes.
 - There needed to be two visits by an OT and the company which made the ramp making the assessment process a complex one
 - The service manager confirmed the ramp had been installed to the front entrance door since I started investigating the complaint and funding had been agreed for a walk-in shower which would involve increasing the ensuite space.

Findings

19. The Council was at fault in record keeping because it held two cases for the same person. This caused avoidable confusion and delay.
20. The Council was also at fault for not meeting the target timescales specified in good practice guidance (see paragraph seven). I have taken into account Ms Y's case was a complex one. I note also the timescales in guidance are targets and the guidance is not statutory. But we do take them into account as a reference point when considering complaints about delay. I consider the delay caused avoidable inconvenience and frustration.
21. There was also poor communication by the Council in its complaint response which was fault causing Mr X avoidable frustration because he did not get an answer when he asked how long the wait for OT assessments was. I consider the Council should communicate rough timescales for OT assessments and the failure to do so in this case was fault. I note the good practice guidance is not mandatory and so the Council is not required to use the timescales within it, but the Council should be able to tell members of the public approximately how long they will have to wait for an OT assessment.
22. I note the reason for the delay in this case was also in part due to a shortage of OTs which is not within the Council's control. The Council is taking all the steps it can to address this through recruitment.

Agreed action

23. Within one month of my final decision, the Council will apologise to Mr X and Ms Y, pay Ms Y £500 to reflect the avoidable inconvenience and frustration due to the delay in the OT assessment and pay Mr X £150 to reflect his avoidable time and trouble complaining.
24. Provisionally, within three months of my final decision, the Council will:
 - Complete the work it has started on reviewing its policy and procedures so they explain priorities and what an urgent and non-urgent adaptation is and set out

some target timescales, having regard to the good practice guidance. (I am not saying the Council has to follow the timescales in good practice guidance, it just needs to consider them and set its own achievable target timescales based on currently available staffing resources.)

- Ensure people who have requested an OT assessment receive a letter confirming they are on the waiting list and an approximate time frame for completion of the assessment

25. We will require evidence of compliance.

Final decision

26. There was a delay in completing an occupational therapy assessment for Ms Y which caused avoidable inconvenience and a delay in installing her walk-in shower. The Council will apologise, make payments of £500 to Ms Y for avoidable inconvenience and £150 to Mr X for his time and trouble. The Council will revise its procedures as set out in this statement.

27. I have completed the investigation.

Investigator's so decision on behalf of the Ombudsman