

9 October 2020

Complaint reference:
19 006 832

Complaint against:
Broxtowe Borough Council

The Ombudsman's final decision

Summary: Mrs B complains the Council wrongly withdrew an offer of a property. She says the property was suitable for her needs and she had started to plan for the move and had disposed of some possessions. There was fault by the Council which has caused injustice to Mrs B. The Council will apologise to Mrs B and make a payment to her.

The complaint

1. Mrs B complains the Council wrongly withdrew an offer of a property. She says the property was suitable for her needs and she had started to plan for the move and had disposed of some possessions.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I 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. I 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*)
3. If we are satisfied with a council'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

4. Mrs B is represented by her son Mr B. I considered the complaint and documents provided. I asked the Council to comment on the complaint and provide information. I interviewed officers of the Council who had been involved with the issues complained of. I sent a draft of this statement to Mr B and the Council and considered their comments.

What I found

5. Mrs B lives in a flat. She has limited mobility and it is not suitable for her needs, particularly because of the steps to the property. She had the highest banding for a move to another property under the Council's housing policy.
6. In January 2019 the Council offered Mrs B a one-bedroom bungalow. The Council has accepted this was a mistake. There had been an assessment by an

occupational therapist (OT) in August 2018 which stated Mrs B needed a level access bathroom and a two-bedroom property for a live-in carer. The Council had not updated its records with the requirement for a two-bedroom property. Had it done so then Mrs B would not have been able to bid on the property.

7. The Council further accepted it did not deal with the offer properly. It did not make clear to Mrs B that the offer was provisional and dependent on checks being made that it would be suitable for her needs.
8. The Council has apologised for the errors. Mrs B does not consider that to be a sufficient remedy. She considers the property would have been suitable for her needs and much better than her current property. She had disposed of some belongings in preparation for the move and has had her hopes dashed.

Analysis

9. The Council failed to update its records to reflect the sort of property Mrs B needed. This meant she was able to bid on the property when she should not have been able to do so. The Council also failed to make clear to Mrs B that the offer was provisional on checks being done that it was suitable for her needs. Those matters are not in dispute. But there is a difference of view between Mrs B and the Council as to whether the property would have been suitable for her. I consider that point is relevant to my assessment of what an appropriate remedy would be for Mrs B.
10. When the Council had identified the property for Mrs B an officer, Officer X, visited the property. The officer had previously met Mrs B at her home as she had helped the family complete the application to the housing register the previous summer. When she visited the property she had a copy of the OT report from August 2018. This described that Mrs B could only mobilise using a four-wheeled walker inside the property and could only manage to walk two metres. It said that she would benefit from having a level-access shower. And she could not manage the five external steps to her current property. The OT report accorded with Officer X's own recollection of Mrs B's needs. Officer X said there was an external step to the property and the property itself was very small. The doorway into the kitchen was very narrow and overall it would not be suitable for use with a four-wheeled walking frame. The property did not have a level-access shower but a bath. There was no scope to adapt the property to make it suitable for Mrs B's needs.
11. The decision that the property was not going to proceed was conveyed to Mrs B, possibly over the telephone, about two weeks after she had been offered it. Mrs B was very disappointed and complained to the Council. The Council looked again at the property with a visit by Officer X and two other officers. The decision remained that the property would not be suitable for Mrs B's needs. I do not consider there is any fault in that decision. The information the Council had about Mrs B's needs was consistent and clearly showed that the property would not be suitable for her.
12. The family remained adamant that it would be suitable and there was a further assessment by an OT. This was only received after the Council had withdrawn the offer. This said Mrs B could mobilise inside her property using sticks and only needed the wheeled walker outside. There was no mention of what needs she had for support with bathing.
13. The family consider the Council should have waited for the further OT assessment before withdrawing the offer. The Council has said it cannot leave a

property unlet while waiting to receive further reports. I accept that position and I do not consider it was wrong for the Council to let the property. The Council has made Mrs B two further offers of two-bedroom bungalows which have been adapted and would meet her needs. The family have declined those offers.

14. I consider there is some limited injustice to Mrs B as she did have her hopes raised about this property but that was for a short period of time. The Council has apologised and has made further offers of suitable properties. To provide a remedy for the injustice I consider the Council should apologise to her and make a payment.

Agreed action

15. Within one month of the final decision the Council will apologise to Mrs B and pay her £100.

Final decision

16. There was fault which caused injustice to Mrs B.

Investigator's decision on behalf of the Ombudsman