

Complaint reference:
14 009 419

Complaint against:
North Tyneside Metropolitan Borough Council

The Ombudsman's final decision

Summary: The Council failed to keep proper records relating to work being carried out at Ms X's property after she was granted an improvement loan. As a result there is uncertainty about what work was approved and what work Ms X was happy with. The Council should pay Ms X £750 to allow her to complete the outstanding work to her kitchen. The Council should also take action to improve its processes.

The complaint

1. Ms X says the Council failed to complete work on her kitchen after she was granted an improvement loan.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. If there has been fault, the Ombudsman considers whether it has caused an injustice and if it has, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

How I considered this complaint

4. I have spoken to Ms X about her complaint and considered the information she has provided to the Ombudsman. I have also considered the Council's response to my enquiries.
5. I have visited the Council's offices to look at paperwork on Ms X's file and interviewed three officers.
6. I have written to Ms X and the Council with my draft decision and given them an opportunity to comment.

What I found

Improvement loans

7. The Council offers assistance to home owners to assist them in bringing their homes up to a decent standard. The purpose is to improve the standard of housing in its area.

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8. The type of financial assistance or loan offered will depend on the circumstances of the household.

What happened

9. In September 2012 Ms X applied to the Council for a home improvement loan. The Council approved the loan in April 2013 for the following work:
- New external doors
 - New windows
 - New bathroom suite and electric shower above the bath.
 - Replace downstairs toilet
 - Repair any defective electrics
 - Replace kitchen
10. Ms X says the Council arranged for contractors to quote for the work. The Council says Ms X chose the contractors who provided quotes.
11. The Council approved the contractor who provided the cheapest quote for the work. The Council wrote to Ms X in July 2013 to say work could go ahead using the approved contractor. The letter said:
- “It is your responsibility to ensure that the contractor engaged will give any necessary guarantees against future defects arising from faulty materials or poor workmanship. Inspections made by Officers of this department are to ensure that there is no departure from the Schedule upon which the approval is based; but in no circumstance should these inspections or payment of Loan be interpreted as guaranteeing the builders work.”*
12. On 12 August 2013 the contractor contacted the Council to say Ms X had cancelled work to the kitchen “for the second time now” and he was withdrawing from the job.
13. On 22 August 2013 the plans for the kitchen were changed to include a breakfast bar, three extra wall cupboards and an extra floor level cupboard.
14. On 30 August 2013 Ms X signed paperwork to say she was happy to pay interim payments to an electrician and the main contractor. The paperwork does not make it clear what work this relates to.
15. The Council says Ms X changed the plans and agreed to keep her own oven, hob and extractor in order to meet the extra cost. Ms X says she believed she was still getting a new hob, oven and extractor fan. An officer I interviewed said changes were agreed with the contractor rather than Ms X. There are no notes of conversations with either Ms X or the contractor regarding changes to plans and any additional cost.
16. The contractor finished work to the kitchen in early September 2013 however Ms X was unhappy with the work and said some work was still outstanding. An officer visited the property and notes made at the time show:
- Benches were not sealed.
 - Window was not sealed.
 - Plastering still needed around electrical sockets.
 - Electrical sockets had been installed under benches and under the sink.
 - Charged for work that was not on the plans.

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- No shelf in cupboard.
 - No electrical socket available for tumble dryer or microwave.
17. An officer visited Ms X's property on 24 October 2013 with the contractor. The officer's notes say "all work carried out." The officer says he asked Ms X to confirm in writing that she was happy for the contractor to be paid. The officer wrote out a statement in his notebook and asked Ms X to sign it. The Council says this is not its normal practice and it has standard forms that should be signed. The officer said he had no forms to hand and was keen to resolve the dispute between Ms X and the contractor so used his notebook instead. The statement said:
- "I am happy to pay the contractor... the full amount as shown on invoice [sic] for work carried out for kitchen"*
18. The officer says the invoice shown to Ms X at the time was dated 20 August 2013. The invoice is for £4800 and says:
- "Interim payment. Supply and fit new kitchen to client's choice."*
19. Ms X denies signing any paperwork saying she was happy for the contractor to be paid for the kitchen. Ms X says she was asked to sign a statement regarding payment for some electrical work but she did not agree to pay for works to the kitchen as some work was still outstanding.
20. Following this the Council received a complaint from Ms X about work carried out at the property. Ms X said:
- Broken tiles in her kitchen had been repaired using silicone rather than replaced.
 - Her fridge was broken.
 - Carpets had not been fitted correctly.
21. The Council responded to Ms X on 4 November 2011 to say it was *"not appropriate for you to continue to complain that this work has not been carried out to your requirements when you have previously agreed it has."*
22. Ms X replied to the letter to say she had agreed for the contractor to be paid for double glazing as these faults had been rectified but she did not agree to any payments for the kitchen as there was still work outstanding. Ms X said contractors were unhappy with plans for the kitchen and following a visit to the kitchen showroom she was told by the contractors that she could not have a new oven and hob. Ms X was also unhappy that her boiler had been blocked in and was inaccessible.
23. The Council asked the contractor for a breakdown of costs involved in fitting the kitchen. The contractor responded on 4 December 2013 and said the total cost was £4448.
24. The Council visited Ms X in January 2014 to view the work to her kitchen. The Council wrote to Ms X following its visit and said:
- The contractor would return to the property to smooth down board supporting the kitchen workbench. The contractor would also remove the cupboard around the boiler and ensure the workbench was fixed securely.
 - The silicone applied to kitchen tiles could be removed and replaced with grout. This work could be carried out by a contractor working on Ms X's bathroom.

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- Ms X ask the electrician fitting the shower to move an electrical socket to a more convenient location.
 - The Council would pay for kitchen flooring but it recommended the work should be carried out once other work to the kitchen is finished.
25. The Council also said it had checked invoices for work to the kitchen but *“there are charges only for 19 handles and 1 skip.”*
 26. The Council wrote to Ms X on 11 February 2014 to say that estimates she had provided for outstanding work to the kitchen were too high. The Council also pointed out that the estimates did not provide costs for removing the boiler cupboard and sanding down board under the workbench. The Council asked Ms X to provide new estimates for the work.
 27. On 27 March 2014 the Council e-mailed Ms X to say it had spoken to the contractor who was working on her bathroom and asked him to complete work in the kitchen. The Council said it was awaiting an estimate *“but this will not be part of the loan and will be met by ourselves (if the estimate is reasonable).”*
 28. Ms X and the contractor who was due to provide the estimate had a dispute and so the work was not completed. On 18 July 2014 the Council invited Ms X to get estimates from new contractors. It says it has not received any to date.
 29. Ms X says the outstanding issues in her kitchen are:
 - Hole in a cupboard with electrical wire exposed.
 - Electrical socket under sink has not been removed.
 - Boiler remains blocked in.
 - Did not receive a new oven, hob and extractor fan.
 - Still not received new flooring.
 - Tiles have not been fixed.
 - Worktop still not properly supported.

My findings

30. Under the terms of the loan agreement Ms X is responsible for managing contractors carrying out work at her property. The Council’s role is to release money once it is satisfied work has been completed satisfactorily and to plan. However the Council’s letter to Ms X on 9 July 2013 does not make this clear.
31. The relationship between Ms X, the Council and the contractor has become confused. Whilst this is in part due to the Council wishing to resolve disputes between Ms X and the contractor it has also caused confusion about each party’s responsibilities.
32. The contractor contacted the Council regarding amended plans to the kitchen. The Council agreed to these without checking whether Ms X agreed. This was fault. Furthermore this conversation between the Council and the contractor was never recorded. The Council says Ms X chose to keep her own appliances but there is no evidence to support this.
33. There is uncertainty around the piece of paper Ms X signed on 24 October 2013. The form of wording used combined with the lack of detail on the contractors invoice leaves uncertainty as to what Ms X was being asked to agree to. It is not clear whether it even relates to the invoice of 20 August.

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34. The failure to use the Council's standard form and the decision to use a handwritten note places the Ombudsman in a difficult position in reaching a view on whether Ms X understood what she was signing. At the very least it seems likely that Ms X did not understand what she was signing and believed more work would be carried out based on the fact she complained shortly after.
 35. The Council has also failed to get a proper breakdown of costs from the contractor regarding the costs of the kitchen. The information provided by the contractors does not show a full breakdown of costs for the kitchen. Furthermore there is a discrepancy between the amount set out in the invoice dated 20 August 2013 (£4800) and the breakdown of cost provided in December 2013 (£4448).
 36. As a result there is uncertainty as to the actual cost of Ms X's kitchen and this has a knock on effect on the amount of loan that was available to complete the work.
 37. The Council has made efforts to resolve the issues Ms X has complained about and offered to pay for some work out of its own budget. In order to remedy the fault the Council should pay Ms X an amount that will allow her to have the work completed.
 38. I must also take account of the fact that the contractor is ultimately responsible for the quality and standard of work carried out even if this was not made clear to Ms X. Therefore I cannot hold the Council responsible for delays or advise the contractor may have given Ms X about the kitchen appliances.

Agreed action

39. The Council should pay Ms X £750. Based on the paperwork I have seen this should be sufficient to cover the cost of the outstanding work in the kitchen. The Council should pay this to Ms X and she should arrange for her own contractor to complete the work.
40. This should be paid within two months of my final decision.
41. The Council says Ms X may have the flooring fitted in her kitchen whenever she chooses using money from the loan.
42. The Council should also take the following action to improve its processes:
 - Consider the wording of documents sent to homeowners making it clear that the Council is not a clerk of works.
 - Remind staff that they must use correct paperwork when getting homeowners to approve payment for works.
 - Improve record keeping within the department to clearly record conversations with homeowners and contractors.
 - Ensure contractors provide a detailed breakdown of costs showing materials and labour charges.
43. These changes should be completed within three months of my final decision and the Ombudsman notified of actions taken.

Final decision

44. I have found fault causing injustice. If the Council agrees to take the action set out above I will complete my investigation.

Investigator's decision on behalf of the Ombudsman