

## Scottish Parliament Region: South of Scotland

### Case 200601252: East Lothian Council

#### Summary of Investigation

##### **Category**

Local government: Housing; Repairs to council house

##### **Overview**

The complainant (Ms C) raised concerns with regard to a delay by East Lothian Council (the Council) in replacing windows in her home, in carrying out a repair to a damaged window lintel, and about the way her contact with the Council was recorded.

##### **Specific complaints and conclusions**

The complaints which have been investigated are that the Council:

- (a) unduly delayed in replacing the windows in Ms C's home (*partially upheld*);
- (b) unduly delayed in repairing a lintel above a window (*upheld*); and
- (c) failed to keep an accurate record of Ms C's contact with them (*partially upheld*).

##### **Redress and recommendations**

The Ombudsman recommended that the Council:

- (i) apologise to Ms C for the delays which occurred in installing the new windows and for implementing the repair to the lintel above the living room window; and
- (ii) make Ms C an appropriate payment in recognition of the costs she incurred in pursuing matters with them.

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

## **Main Investigation Report**

### **Introduction**

1. The house in which Ms C resides is over 60 years old. Ms C's late mother was tenant from 1973 until her death in January 2005. Ms C then succeeded to the tenancy. In the late 1980s, metal double glazed windows were installed. Ms C maintains these were ill fitting and caused problems of draughts and water ingress. At the time Ms C first approached the Ombudsman's office on 27 July 2006 she had not completed the Council's complaints procedure. Her complaint was re-opened on 5 December 2006 after she had exhausted that process.

2. The complaints from Ms C which I have investigated are that East Lothian Council (the Council):

- (a) unduly delayed in replacing the windows in Ms C's home;
- (b) unduly delayed in repairing a lintel above a window; and
- (c) failed to keep an accurate record of Ms C's contact with them.

3. Ms C also complained that there had been loss and damage to her property as a result of a visit by Council workmen in May 2005. I took the view that that matter should have been the subject of a claim to the Council at the time. Ms C was sent a form from the Council on 26 June 2006 to submit a claim but did not return it. Ms C also raised issues regarding the measurement of her kitchen. She had not taken those issues through the Council's complaints procedures and I informed her that those matters would not, therefore, be investigated.

### **Investigation**

4. The investigation is based on information supplied by Ms C and the Council's response to my enquiries. 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.

5. The Council have supplied me with a copy of their computerised record of repairs reported to them since the re-organisation of local government on 1 April 1996. Perusal of the complete record shows no persistent complaint about windows. One repair request was made and action taken in March 1998. A report of condensation in two bedrooms was made in February 2000.

Relevant repairs requests from the computer record are detailed in Annex 2 covering the period from 1 January 2004.

**(a) The Council unduly delayed in replacing the windows in Ms C's home; (b) The Council unduly delayed in repairing a lintel above a window; and (c) The Council failed to keep an accurate record of Ms C's contact with them**

6. According to Ms C, a problem with her bedroom window was raised on 14 April 2004. Ms C was aggrieved that it took over five weeks for a Council officer to attend on 21 May 2004 and that he did so without prior announcement.

7. The Council say that the original letter from Ms C was dated 9 May 2004 and was date stamped as received on 12 May 2004. A Property Maintenance Officer (Officer 1) visited Ms C and her mother on 17 May 2004. Officer 1 confirmed that Ms C's home was the only council owned house of its type in the street and that it had been missed from the Council's window replacement programme. That programme was already established and the production run for the manufacture of windows agreed. Officer 1 informed Ms C and her mother that their house would be added to the end of the programme and that he would keep Ms C informed in relation to the timescale. (Ms C commented that she understood from Officer 1 that her windows would be replaced in the financial year commencing on 1 April 2005.)

8. On 21 May 2004 another Property Maintenance Officer (Officer 2) visited Ms C's home. He stated he had been given a wrong mobile telephone contact number by Ms C and had been unable to make a prior appointment. He found Ms C's mother in the house alone. He left a note for Ms C with his mobile telephone number in order that Ms C might contact him.

9. Ms C complained about Officer 2 visiting without prior appointment in a letter of 24 May 2004 to the then Director of Building Services and Repairs (the Director). She stated that a metal frame bedroom window (dating from the late 1980s) was ill-fitting and at places there was almost a half inch gap between the window and frame.

10. A works order was issued to repair two twisted casement sashes on the back bedroom window on 17 May 2004 with a target date of 17 June 2004. Following a reminder from Ms C to the Director on 19 June 2004, the window

sashes were tightened on 14 July 2004. A works order to renew the back bedroom window sill was issued on 1 July 2004.

11. According to Ms C, this work was not done until May 2005. Workmen attended when she was at work. She alleged that, in the course of accessing the rear, workmen damaged her garden gate and ornaments in her garden.

12. On 9 March 2006, painters attended Ms C's property to carry out external paintwork as part of the Council's five year annual maintenance programme. According to Ms C, her gate handle was broken and she telephoned the Council's Property Maintenance Section on 10 March 2006 to complain. On 14 March 2006 Ms C telephoned again to ask about outstanding works to be carried out in her property and again on 27 March 2006 when the painting contractors had left a card indicating they wished access to the rear of Ms C's house. Ms C telephoned the Director's office on 30 March 2006 and 4 April 2006. The Director stated that he had no computer record of outstanding works required at the property in regard to the windows. He would, however, get an inspector to view the property. Following subsequent calls, to the Director and to the Property Maintenance Section on 5, 6, and 18 April 2006, the Council's Principal Contracts and Procurement Officer wrote to Ms C confirming an arrangement for council inspectors to visit her on the morning of 28 April 2006. One of the inspectors was the Council's painting supervisor. The other inspector attended to measure for the replacement windows.

13. The Council's computerised repair history for Ms C's house records that a works order to supply and install new windows was issued on 9 May 2006. When Ms C telephoned an officer in the Council's Property Maintenance Section on 10 May 2006, she learned that a works order had been issued for the windows. This was confirmed in a letter dated 11 May 2006 from the Community Housing and Property Maintenance Manager who explained that the manufacture of the windows usually took six to eight weeks and that Ms C would be given a week's notice of the date when installation would commence.

14. On 26 May 2006, Ms C telephoned the Council's Project Liaison Officer (Officer 3). Officer 3 undertook to visit Ms C on 29 May 2006. At that visit, Ms C referred to the damage allegedly caused by workmen in May 2005 (paragraph 11) and Officer 3 stated that she would arrange for the side gate to be repaired. Ms C also referred to the damaged window lintel and to the

window replacement. Officer 3's notes record that Ms C claimed that her couch had been ruined due to water penetration from the windows. Officer 3 considered, however, that the damage was probably caused by condensation.

15. On 28 June 2006, Ms C wrote to her MP regarding the issues she had raised with Officer 3. At this time a form was sent out to Ms C by the Council for her to submit a third party claim but this was not subsequently completed and returned by Ms C.

16. Following a call to the Council's Head of Community Housing and Property Management on 7 July 2006, Officer 3 wrote to Ms C stating that an officer would contact Ms C during the week commencing 24 July 2006 to agree a date for the replacement window work to begin. Officer 3 stated that she accepted that the Council had not kept in constant contact with Ms C on the progress of the works orders and 'will apologise if you feel that this is the case'.

17. The Council's repairs history records that a works order to measure up and renew a pre-cast lintel above the living room window was issued on 16 June 2006 with a target date for completion of 19 July 2006 and a works order to fit two new gate posts and re-hang the gate was issued on 21 July 2006 with a target date for completion of 23 August 2006.

18. Arrangements were subsequently made with Ms C for the window replacement works to commence on 28 August 2006. Ms C took four days off work to give entry to the workmen. The side gate was also repaired at this time by the Council.

19. On 28 September 2006, Ms C submitted a letter of complaint to the former Chief Executive complaining of the delay in having the defective windows replaced and the number of calls she had had to make to query the lack of progress. She mentioned that her couch had become discoloured due to damp; that her Venetian blinds did not now fit the new windows; that the lintel above the living room window was still hanging off; and that it had taken more than a year for the side gate damaged by council workmen to be repaired. Ms C supplied a note raising nine problems she had encountered which had previously been passed to her MP on 28 June 2006. She also expressed concern that her telephone calls on the matter had not been properly recorded.

20. Ms C's letter was acknowledged on 9 October 2006. The former Chief Executive sought the comments of the Head of Community Housing and Property Management and forwarded these in his letter of 8 November 2006 to Ms C. Ms C was informed that there was a lack of evidence from the repairs records that Ms C had complained about water ingress or draughts. Damage to soft furnishings might have resulted from condensation. The Chief Executive maintained that her property had not been omitted from the window replacement programme. He stated that the lintel had been inspected and recommended remedial works would be carried out in due course. The Chief Executive noted that Ms C had made many telephone calls, however, staff in the Property Maintenance section had kept Ms C informed as to the procedure for carrying out the remedial work. Telephone calls in between times would not have provided Ms C with any further information than she had already been given. The Chief Executive apologised for any inconvenience Ms C had experienced throughout the window replacement work and advised her that, if she remained dissatisfied, she could take her complaint to the Ombudsman.

21. When Ms C wrote to the Ombudsman's office on 30 November 2006 she indicated that she wanted to be recompensed for the higher fuel bills she had previously incurred because of ill-fitting windows, for damage to her couch, for the costs of repainting her window surrounds, for additional expenditure in acquiring thermal linings for her curtains and for the telephone and other costs she had incurred in pursuing her complaints. I established in a telephone conversation with Ms C on 22 February 2007 that she had not submitted a claim for compensation to the Council in respect of those matters. In informing Ms C of my decision to investigate part of her complaint on 11 June 2007, I informed her that I would not be pursuing her allegations about loss and damage to her property which she should have been pursued as a claim for compensation.

22. The Council informed me that the repair to the lintel above Ms C's living room was carried out on 13 June 2007 as part of a pre-arranged appointment.

23. In commenting on a draft of this report the Council's Head of Community Housing and Property Management (Officer 4) stated that Ms C's house was the only Council owned house of its type in Ms C's street and had been omitted from the Council's window replacement programme which covered all their area. He pointed out that the house had already had metal double glazed units fitted previously and that priority in the 2005-06 window replacement programme would have been given to houses in the Council's area with timber

single glazed windows with the consequence of Ms C's house slipping into the 2006-07 financial year. With regard to the repair to the lintel, Officer 4 stated that there were staffing issues in the relevant Council repair team at that time and that, at Ms C's insistence, she had requested that repairs only be effected when she was present in her home. Officer 4 also stated that the Council's previous tracking system for housing repairs was outmoded and had been replaced in November 2007.

*(a) Conclusion*

24. Setting aside the issue of whether Ms C's home should have been included when other properties in the neighbourhood had their windows replaced, there was still a delay of over two years between June 2004 and late August 2006 in implementing the works. I am unable to establish what was said to Ms C in May 2004 (paragraph 7) and whether Ms C assumed that the window replacement in her house would definitely be done in 2005-06. I consider that the delay was unfortunate. I note the Council's statement at paragraph 23 that there were mitigating circumstances. I partially uphold the complaint.

*(a) Recommendation*

25. The Ombudsman recommends that the Council apologise to Ms C for the delays which occurred implementing the repair to the lintel above the living room window.

*(b) Conclusion*

26. The works order for repair to the lintel above the living room window was issued on 16 June 2006 and was completed on 13 June 2007. While the problem was not a structural one, it was obviously a matter giving Ms C concern, and the repair should not have taken almost a year to carry out. The former Chief Executive's letter to Ms C of 8 November 2006 did not explain that the Council regarded the repair to the lintel as cosmetic and of low priority or that the recommended remedial works would take a further seven months to effect. I do not consider that the explanations proffered account for the delay. I uphold the complaint.

*(b) Recommendation*

27. The Ombudsman recommends that the Council apologise to Ms C for the delays which occurred in installing the new windows and for implementing the repair to the lintel above the living room window; and

*(c) Conclusion*

28. The evidence presented to me to consider does not confirm that Ms C actively pursued the delay in the replacement of windows in her home until 10 March 2006, some 22 months after it had been confirmed to her orally by Officer 1 in May 2004 (paragraph 7) that her house would be added to the window replacement programme. The work was not commissioned in the 2005-06 financial year and it was not until 9 May 2006 that a works order for the replacement of windows in Ms C's home was issued (Annex 2).

29. Ms C kept her own record of various calls she made subsequent to 10 March 2006. The Council apparently had no facility to record these calls on the computerised repair record. In my view, it is not important for each and every telephone call to be recorded. What is essential, however, is that works orders are properly recorded and that their current status is kept up to date. It is clear that there were significant delays in entering three works orders in this case and that their entry in the record in the system was as a result of Ms C's persistence. If the works orders had been entered without delay initially, relevant staff could have given Ms C clear advice on targets for implementation and that would have precluded the need for the series of telephone calls made by Ms C. I partially uphold this complaint.

*General Recommendation*

30. The Ombudsman recommends that the Council make Ms C an appropriate payment in recognition of the costs she incurred in pursuing matters with them.

31. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify her when the recommendations have been implemented.



**Explanation of abbreviations used**

Ms C	The complainant
The Council	East Lothian Council
Officer 1	A council Property Maintenance Officer
Officer 2	Another Council Property Maintenance Officer
The Director	The Council's former Director of Building Services and Repairs
Officer 3	The Council's Project Liaison Officer
Officer 4	The Council's Head of Community Housing and Property Management

**Annex 2****Council Records of Repairs Requests at Ms C's home 2004-2007**

Date reported	Nature of Repair	Target Date	Invoice Accepted
17.05.04	Repair two casement sashes in back bedroom window	17.06.04	29.12.04
01.07.04	Renew back bedroom sill	03.08.04	01.07.05
02.07.04	Renew kitchen taps	04.08.04	30.12.04
06.09.04	No hot water from hot tap in bath	7.10.04	30.12.04
11.10.04	Bases of kitchen units rotted through	24.02.08	Cancelled 02.06.05
14.01.05	No hot water from hot tap in bath. Repair	16.02.05	15.02.05
14.01.05	Replace euro cylinder on front door	20.01.05	15.02.05
07.03.05	Fan in bathroom won't go off. Check fan	28.04.05	26.04.05
23.09.05	Hall light socket blown	24.09.05	6.10.05
09.10.05	Water discharging into rear garden at bottom	10.10.05	31.01.06
24.10.05	Window repairs fit two hinges	10.10.05	Cancelled 28.03.06
30.10.05	Hall light hanging from ceiling by cable	31.10.05	31.01.06

Date reported	Nature of Repair	Target Date	Invoice Accepted
01.11.05	Confirmation of supply and fit two pairs of window hinges	02.12.05	02.11.05
27.04.06	Replace pendant in hall	30.05.06	30.06.06
09.05.06	Supply and install new windows as per Officer	09.06.06	05.10.06
16.06.06	Renew pre-cast lintel l/room window measure up and fit	19.07.06	16.06.06
21.07.06	Renew 2 No posts; rehang gate; fit new lock	23.08.06	19.09.06
14.02.07	Tenant getting electric shocks from bathroom light switch	15.02.07	07.03.07