

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint about
Bromsgrove District Council and Worcestershire
County Council**

(reference numbers: 23 004 976 and 23 004 979)

10 October 2024

The Ombudsman's role

We independently and impartially investigate complaints about councils and other organisations in our jurisdiction. If we decide to investigate, we look at whether organisations have made decisions the right way. Where we find fault has caused injustice, we can recommend actions to put things right, which are proportionate, appropriate and reasonable based on all the facts of the complaint. We can also identify service improvements so similar problems don't happen again. Our service is free.

We cannot force organisations to follow our recommendations, but they almost always do. Some of the things we might ask an organisation to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

We publish public interest reports to raise awareness of significant issues, encourage scrutiny of local services and hold organisations to account.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Ms X	The complainant
Y	Her child
The District Council:	Bromsgrove District Council
The County Council:	Worcestershire County Council

Report summary

Children's services – disabled child and disabled facilities grant

Ms X complained about the actions of the District Council and County Council in undertaking adaptations to a property to meet the needs of her disabled child Y. As a result, Ms X says the adaptations were not appropriate and further works were required. This meant the family was living in an unsuitable property for longer than necessary, which caused the family significant distress and disruption and meant Y had to spend six weeks in respite away from the family.

Since 2019, Worcestershire Children First has provided children's services functions, as a wholly Council owned company, on behalf of Worcestershire County Council, following a direction by the Department of Education. This has included having a Chairperson and Board made up of non-executive and executive Directors who were responsible for the day to day running of the Company. Where an organisation is providing services on behalf of a council, we can investigate complaints about the actions of these providers, but the council remains responsible for the services, actions, and our recommendations. (Local Government Act 1974, sections 24A(1)(a) and 25(7), as amended)

Finding

Fault causing injustice and recommendations made.

Recommendations

The Councils must consider the report and confirm within three months the action they have taken or propose to take. The Councils should consider the report at their full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended)

To remedy the injustice caused we recommend:

- a) The District Council apologises and pays Ms X £2,000 to acknowledge the distress and frustration caused by its delays and poor communication.
- b) The County Council apologises and pays Ms X £4,000 to acknowledge the injustice caused by the failure to ensure the initial plans met Y's needs.
- c) The District Council and County Council, on a 50:50 basis, refund to Ms X the cost of her private occupational therapy and architect reports on production of a receipt/invoice.
- d) The District Council and County Council each pay Y £500 (a total of £1,000) to acknowledge the direct impact on Y of the Councils' failings.

We publish [guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively to remedy injustice. The Councils should consider this guidance in making the apologies we have recommended.

It is unlikely that the specific circumstances of this case will arise in future due to Y's complex needs. However, there are still wider points of learning that can be taken from this case and so we recommend, within three months:

- e) The District Council reviews its procedures to ensure:
 - i. communication with applicants is effective, that plans are clearly explained to applicants, so they understand what adaptations they are agreeing to;

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- ii. any changes to plans are agreed with the occupational therapist to ensure they continue to meet the individual's assessed needs and the applicant is made aware of these changes.
 - f) The County Council meets with Worcestershire Children First to discuss this decision and takes appropriate steps to assure itself that Worcestershire Children First has taken suitable action.
 - g) There is an agreement between the District and County Council (in consultation with Worcestershire Children First when it is acting on its behalf) as to who should be the specific point of contact for the applicant for major schemes where the adaptations are substantial.
 - h) The County Council agrees a policy requiring its occupational therapists to involve an applicant as early as possible in the adaptations process to ensure the recommendations made are appropriate to meet the assessed needs of the child.

The Councils have accepted these recommendations.

EMBARGOED TILL 00:01, 05/01/24

The complaint

1. Ms X complained about the actions of both the District Council and County Council.
2. Ms X complained about the quality of the Occupational Therapy assessment carried out on behalf of the County Council as part of a disabled facilities grant application for her child Y. Ms X complained the assessment made recommendations which were unsuitable and did not meet Y's current or long term needs.
3. Ms X complained the District Council delayed carrying out adaptations required to meet Y's care needs. In particular, there was poor communication, a lack of understanding of Y's needs and a failure to properly consider building regulations and fire safety.
4. As a result, Ms X says the adaptations were not appropriate and further works were required. This meant the family was living in an unsuitable property for longer than necessary, which caused the family significant distress and disruption and meant Y had to spend six weeks in respite away from the family.

Legal and administrative background

The Ombudsman's role and powers

5. We investigate complaints about 'maladministration' and 'service failure'. In this report, we 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. We 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)
6. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (Local Government Act 1974, sections 26B and 34D, as amended). Because of the complexity of the case and number of agencies involved, alongside Ms X's caring role, we have exercised our discretion to consider what happened from August 2021 onwards as we are satisfied Ms X could not have reasonably complained to us sooner.
7. Under our information sharing agreement, we will share this decision with the Office for Standards in Education, Children's Services and Skills (Ofsted).

Relevant law and guidance

Disabled facilities grants

8. Under the Housing Grants, Construction and Regeneration Act 1996, councils can award Disabled Facilities Grants (DFG) to people whose disability means their home needs adaptation. If the person applying meets the qualifying criteria the council must award the grant.
9. A council must decide if the proposed works are necessary and appropriate to meet the needs of the disabled person. It must also be satisfied it is reasonable and practicable to carry out the works given the condition of the property to be adapted. Where a district council is responsible for DFGs, the occupational therapist may work for a county council.

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10. The maximum amount of mandatory grant is £30,000. Grants for children are not means-tested. Councils can decide to give more help if they think it is necessary. If an adaptation is required to meet an assessed need and the cost of the works will exceed the maximum grant available, the remainder should be met either by the district council using its discretionary powers or by social services departments at the county council under the other legislation set out below.
 11. Under the Chronically Sick and Disabled Persons Act 1970, councils with social services functions have a duty to arrange for adaptations to a person's home to secure their safety, comfort or convenience.
 12. Under Section 17 of the Children Act 1989, councils with social services functions have a duty to safeguard and promote the welfare of children in need in their area. A child with a disability is a child in need. Under the Act, councils can provide financial help to a child or family. Such financial help may be unconditional or subject to repayment in full or part. The courts have said the functions of a council under Section 17 of the Act can extend to providing major adaptations to a child's home.
 13. In March 2022 the government issued non-statutory guidance "Disabled facilities Grant (DFG) Delivery: Guidance for local authorities in England". This guidance replaced the "Home adaptations for Disabled People: A detailed guide to related legislation, guidance and good practice (2013)".
 14. Both the previous and current guidance set out best practice target timescales for moving through the stages which depend on the urgency and complexity of the works required. The guidance suggests 95% of urgent and complex works should be carried out within 130 working days and 95% of non-urgent and complex works should be carried out within 180 working days.
 15. The legislation sets out the purposes for which a grant can be used. This includes access to the home and garden and access to a room suitable for sleeping, the principal family room and a bathroom. It also includes making the premises safer. Of relevance to this complaint, the guidance says:
 - Access to the garden should allow the disabled person to access their home or garden for drying clothes, playing, or supervising play, and gardening.
 - There is a need to make the home safer for the disabled person and other people living with them. It is not appropriate to be too prescriptive, but the needs covered under this subsection might include situations where someone with a physical disability could not safely escape in the event of a fire.
 - It is important that the assessment considers the need for a disabled child to be able to participate in all aspects of family life, for example, in ensuring that dining space is available to enable all members of the family to eat together.
 16. District and county councils should work together to provide a well-coordinated DFG service. They should keep service users informed about progress including any problems arising. The Ombudsman considers the duty to meet assessed eligible needs is only met when adaptations have been satisfactorily finished.

Key agencies involved

17. In this case:
 - Worcestershire Children First is the company responsible for delivering children's services across Worcestershire since 2019. It is a not-for-profit company owned by the County Council. When a council commissions or arranges for another organisation to provide its services (in this case children's

services), we treat actions taken by or on behalf of that organisation as actions taken on behalf of the council and in the exercise of the council's functions. We therefore consider the actions of Worcestershire Children First are the actions of the County Council. From 1 October 2024, Worcestershire County Council will take back control of early help, children's social care and education services from Worcestershire Children First.

- Bromsgrove District Council is the District Council responsible for the DFG.
 - Bromsgrove and District Housing Trust (BDHT) is the largest social housing provider in the area. It is contracted by the District Council to provide its homelessness service.
 - The Community Occupational Therapist (COT) works for the National Health Service (NHS) and is funded by the County Council to provide support with adaptations. BDHT also contracts some COT hours to support it in assessing adaptations for its properties.
18. This complaint concerns the actions of the County Council which has the overarching responsibility to meet Y's assessed eligible needs as a disabled child, and the District Council, and those acting on its behalf, in awarding grants and carrying out approved works under the DFG.

How we considered this complaint

19. We produced this report after considering the information provided by Ms X and having discussed the complaint with her on the phone. We considered the Councils' responses to our enquiries and the relevant law and guidance.
20. We gave Ms X, the Councils and Worcestershire Children First the opportunity to comment on this draft report. We took into account the comments we received before completing the report.

What we found

21. The chronology below is a summary of the key events.

Background

22. Ms X was living in a property with her children. One of her children has significant health and learning needs. The District Council accepted Ms X was homeless due to the current property not being suitable for the family's needs.
23. The NHS had commissioned a care package of a waking carer to sit with Y at night, but Ms X was unable to use the package as Y shared a room with a sibling. Ms X was therefore meeting Y's nighttime care needs and suffering from sleep deprivation. Ms X was also carrying Y up and down the stairs in the property which was not safe and was impacting Ms X's health.
24. In late March 2021 BDHT proposed a property which it considered could meet the family's needs subject to adaptations. The Community OT (COT) proposed some internal adaptations which Ms X did not consider were suitable. BDHT offered Ms X the property. She appealed its suitability, and the District Council upheld the appeal. The District Council decided to extend the property it had offered instead of carrying out internal adaptations.

The original extension

25. In August 2021 BDHT submitted some indicative drawings to the COT for a ground floor extension to the property to include a bedroom and bathroom. The COT was not satisfied the proposed extension was big enough to meet Y's needs. Y's Paediatric OT (POT) advised that access was needed to both sides of Y's bed and was concerned the extension was not large enough.
26. The COT visited the property with the District Council and BDHT. Ms X was not invited to attend. The COT noted the property needed significant work to make it suitable to live in. This included replastering, central heating, rewiring and a kitchen and bathroom. The COT noted the back garden would be cleared, levelled, and grassed to make a good safe and secure garden for Ms X's children to play in. The District Council advised the extension could be increased to three metres wide with permitted development rights (development allowed without the need to apply for planning permission) but extending any further would require full planning permission.
27. The COT spoke with Ms X on the phone in late September to discuss the plans and timescales.
28. The District Council revised the plans to increase the extension size to the maximum allowed under permitted development rights and in October the COT sent the revised plans to Ms X. The notes record the COT spoke with Ms X and said the build was as large as it physically could be, there being no further space to expand into. Ms X emailed the COT and both Councils about the plans. She raised concerns that there needed to be a dining area with space for two adults, as a carer would need to support Y and this area would also be used for activities with Y and Y's sibling. Ms X said the bed needed to be accessible at both sides (it showed as against the side wall in the plan), the bedroom needed space for a chair for the carer and it needed storage space for Y's wheelchair and other equipment. Ms X said she was concerned two sets of plans had been drawn up without actively involving anyone that knew Y or Y's medical/care needs. She said she was told the garden would be level to the rear, but this was not shown on the plans. She asked that her concerns be shared at the professionals meeting which was being held the next day.
29. The District Council met with the County Council, BDHT, COT and Y's Paediatric OT (POT). They discussed the plans produced for the extension. Ms X was not invited to the meeting. The key concern was the cost of the works. The District Council had agreed to provide £20,000 discretionary funding on top of the £30,000 DFG funding but the meeting considered the costs would exceed this. BDHT agreed to complete the works as it would carry out the general works at the same time. The minutes record it also agreed to "level the garden and provide a small patio with the rest of the garden being put out to grass". The COT and POT agreed the plans and that there was enough room for the hospital bed to be central as an island.
30. Following the meeting the POT emailed the COT with concerns about whether the bedroom was wide enough to allow carers at both sides of the bed and asked if the doors were to be sliding doors. The COT responded that the size of the bedroom was covered at the professionals' meeting and the bed not being drawn to scale gave a misleading picture. The COT agreed sliding doors would give more space.

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31. In early November 2021 the COT visited Ms X for the first time. Ms X explained about Y's equipment which included a standing frame, push chair, wheelchair and specialist armchair, all of which would get bigger as Y got older.
 32. In December 2021 BDHT asked the COT to confirm the drawings met the assessed housing need. The COT discussed the extension with Ms X and explained the bedroom was as physically large as it could be. The COT said it was large enough for a profiling bed to be accessible at all sides and for a chair for a waking carer. The COT emailed BDHT with a couple of issues including that steps in the garden needed removing from the plan as BDHT had agreed at the first meeting to level the garden and grass it and asked that the bathroom be made a fraction smaller to increase the bedroom space.
 33. In January 2022 the District Council produced a schedule of works. This costed the total works to the property at just under £174,000. This included around £55,000 of costs to make the property suitable to live in. BDHT requested tenders for the project. This included the costs for all the works to the property.
 34. In late February the County Council advised Ms X that funding for the extension had been agreed between BDHT, the NHS, the District Council, and the County Council.
 35. In March 2022 the COT discussed the final plans for the extension with Y's POT. The COT considered the bedroom was a very good size, but space could be increased with a sliding door or the bedroom door opening outwards. They agreed the bathroom size would increase if the door was a sliding door. The COT submitted the paperwork to BDHT for the DFG.
 36. The COT also updated the NHS about the planned adaptations. They reported the bedroom was large enough for the bed to be an island site with enough wheelchair turning space for an adult to plan for the future as far as physically possible. This included that they had asked for the doors to be altered to sliding doors to give more room in the bedroom. They said that at the back of the house would be a level access patio area suitable for wheelchair access and the rest of the garden levelled and lawned.
 37. The District Council formally offered Ms X the property later that month, subject to the agreed adaptations, and sent her a copy of the plans. Ms X said the plans provided to her at this time did not include the plans for the external works. The plans did not include sliding doors but doors that opened inwards. In April 2022 BDHT amended the schedule of works regarding works to the front driveway.
 38. A month later, in May 2022 the District Council met with Ms X and she signed the tenancy and DFG paperwork and BDHT appointed a builder.
 39. In May 2022 work commenced. Shortly after, Ms X raised concerns about the garden works. She understood it would be levelled to allow wheelchair access. BDHT advised it would be a level access patio for wheelchair access, but the rest would not be levelled due to the significant number of retaining walls which would be required. Ms X complained to the District Council.
 40. The District Council responded that while Ms X believed the garden would be levelled the final decision on the nature of the works was not agreed until all funding was in place. It said Ms X had been sent the finalised plans. Ms X said the District Council never sent her the final plans and the plans sent in late March 2022 did not make clear the garden was not level.

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41. Ms X contacted the District Council in August 2022. She was concerned the driveway was not wide enough for the car and wheelchair and was not in line with the plans she had seen. BDHT responded that the plans were agreed by all parties prior to the works commencing. The COT and POT both confirmed they were not consulted about the changes to the driveway, which had been altered since the plans initially produced. As a result, BDHT installed a path next to the driveway.
 42. Between May and September, the District Council's Building Control Service inspected the site at varying stages of the development.
 43. The District Council's Building Control Service issued a certificate of completion to BDHT. This referred to 'a side extension and internal remodel to create additional living space to the ground floor and additional bedroom space to the first floor'.

Further adaptations

44. In mid-September 2022 Ms X, through a representative, submitted a complaint to both the District Council and County Council. She complained she was told the back garden would be levelled so it was accessible for Y. She considered the front garden was not suitable as it was not near Y's access to the house and could not be accessed without moving the car off the driveway. The driveway was not as set out in the original plans and meant Y would have to cross the grass to exit and access the car. The bedroom was very small, and the doors installed in the extension opened inwards although the COT had requested sliding doors. Ms X was also concerned about the costs and how much were attributable to the DFG and how much to the general works to make the property habitable.
45. Later that month Ms X moved into the property with her children. She raised concerns the doors were not sliding doors and that the bed could not be in the middle of the room so both sides could not be accessed.
46. BDHT responded to Ms X that the driveway was altered to reduce costs. However, it had installed an additional path after she raised her initial concerns. It said the plans showed the bedroom doors opened inwards and said the COT had raised this in March but had said they were a 'wish list' item. It said the plans for the garden were clear.
47. In October 2022 the District Council met with the County Council and BDHT to discuss the provision of sliding doors at the property and garden works. Ms X was not invited. BDHT said the cost would be above its minor works budget. It did not want to manage any further adaptations at the property. The meeting agreed a second DFG should be considered to fund the works which the OT considered necessary and appropriate to meet Y's needs.
48. The District Council carried out a site visit in December 2022 with Ms X, the COT and the Home Improvement Agency, which had agreed to take over responsibility for delivering the adaptations. The COT acknowledged there was limited bedroom space which made essential care activities challenging. They noted the current doors limited the workable space as they opened inwards and asked that sliding doors be explored. They noted that outdoor play space was required for both children. Y could not access the higher level garden and the patio had limited space. The COT agreed to support the identified need for access to the garden for play. There was a need to consider future planning for Y and the officers concluded two options were available: to extend the bedroom into the kitchen space using the dining area or for the family to move house. Following this the COT submitted a major adaptations request for sliding doors.

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49. Ms X raised her concerns with the County Council, in February 2023, that the adaptations carried out did not meet Y's needs.
50. In February 2023 the County Council organised a meeting of all professionals. Following this an OT assessed the property, and a further meeting was arranged to discuss their recommendations. Ms X raised concerns with the County Council that the proposed changes would take up half the dining space, and there would be no room for the tumble dryer which was necessary to meet Y's needs. Y could not access the garden and the bedroom window was too high to be a safe emergency exit. She was also concerned about where Y would live whilst further adaptations were carried out.
51. The professionals' meeting in March 2023 proposed:
- an area in the front garden be fenced off for the children to play;
 - replacing the bedroom window with a larger window which the County Council agreed to fund, as the current one was too small to escape from in an emergency;
 - the door between the kitchen and bedroom be replaced with a sliding fire door as there was a gap underneath the one installed;
 - internal changes including moving the wall between the kitchen and bedroom into the dining area to create more space for the bed and the installation of sliding doors;
 - the need to consider the impact of any changes on the dining space, in line with the DFG guidance (the need for a disabled child to be able to participate in all aspects of family life, for example, in ensuring that dining space is available to enable all members of the family to eat together).
52. Ms X did not agree to the proposals. She said Y needed quick access into the house from the front garden due to their medical needs which was not currently possible. She said she would obtain her own reports.
53. In June 2023 the Fire Service carried out a risk assessment. It concluded the bedroom window was not appropriate for Y's medical condition and would hinder crews and family from getting Y out if trapped by fire. It also highlighted a gap beneath the door between the bedroom and kitchen which would let smoke enter the room.
54. Ms X obtained private OT and architect reports. Representatives from the District Council and County Council met with Ms X in June 2023 to discuss these reports. They noted:
- the independent OT and architect had addressed the need for storage space for Y's equipment which the Council assessment had not;
 - the proposed outdoor space at the front would meet Y's needs and could commence;
 - the bedroom window met building regulations but was not a suitable fire exit for a disabled child. It could be widened to improve its suitability as a fire exit;
 - Ms X remained opposed to using dining area space to expand the bedroom as this would limit social interaction and remove the space for the tumble dryer which was essential for meeting Y's bedding and clothing needs. The Council agreed to obtain architect plans to compare with those prepared by Ms X's architect.

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55. At a further meeting of all parties in July the District Council confirmed it had made enquiries of its planning department regarding fencing the front garden. Taking account of the plans produced on Ms X's behalf, the Home Improvement Agency produced some revised plans. These included:
- a new access at the front of the property to the play area;
 - an extension which would provide just under two metres extra space in the bedroom;
 - switching the bedroom and bathroom with a pocket sliding door between the two;
 - an increase in the window size at the property rear.
56. The Council explained the new works would require planning permission which would impact the timescale for completion. The notes record Ms X agreed to wait for the front access to be completed before the front garden works commenced as the garden would not be suitable for Y without quick access to the house.
57. The COT submitted a referral for a major adaptation to increase the extension, install sliding doors and a new front access, and to fence a play area at the front of the property.
58. In August 2023 Ms X agreed the plans. The works received planning permission later that year.
59. The works started in February 2024 and were completed in June 2024 although there remained issues with garden access. Y had to go into respite for six weeks whilst the works were undertaken. The Councils completed the garden works in September 2024.

Conclusions

Delay

60. The property was identified as suitable to relieve Ms X's homelessness subject to significant adaptations. It required not only a DFG but extensive works to make it fit for occupation. Due to the extent of the works required and Y's complex needs the cost of the proposed DFG exceeded the £30,000 DFG limit, even taking into account the discretionary £20,000 the District Council had put aside. Without additional funding, the adaptations could not proceed. Obtaining the funding to carry out the adaptations took time to resolve.
61. The County Council in seeking to meet Y's needs, agreed to contribute to the cost of the adaptations. The NHS also contributed funding which enabled the adaptations to proceed.
62. There was some initial delay as BDHT, acting on behalf of the District Council, obtained plans for an extension in August 2021 prior to consulting the COT and without Ms X's input. This was fault. These plans were not suitable to meet Y's needs and it was another two months before further plans were drawn up which, at the time, the OTs considered would meet Y's needs. Once further plans were drawn up it took an additional 12 months to complete the extension. The guidance suggests urgent complex major adaptations should be completed within 130 working days, so around six months. Given the complexities of this case and the need to secure additional funding, the works may have been expected to take longer. However, the works took twice as long as the guidance recommends and having considered the chronology, took around three months longer than it should

have. This was fault and meant Ms X and Y were living in an unsuitable property for longer than they should have been.

The assessments

63. The COT was employed by the NHS but funded by the County Council as part of the DFG process. We therefore consider the actions of the COT to be on behalf of the County Council which has the primary duty under social care legislation to meet Y's needs.
64. The original adaptations carried out did not meet Y's needs. This was because the initial assessment was inadequate and failed to properly consider Y's needs. This was fault. Two sets of plans were drawn up before the COT even met Ms X and Y. As a result of the fault, the extension was too small to allow the bed to be in the middle of the room and the doors, which were significantly wider than standard doors to accommodate a wheelchair, opened into the bedroom, limiting space. The COT failed to consider that Y would need a bigger bed as they grew plus the extent of the equipment Y needed. The back garden included a patio which Y could access but was not wide enough for a turning circle, and the grassed area required steps to access it, and so it was not accessible to Y.
65. The plans agreed by the COT did not plan for the future. This was fault. There were references to the bed in the plans not being drawn to scale and the drawings showed the bed against the side wall and not as an island site which all parties agreed was necessary to meet Y's needs. It was clear from these plans that the bed could not be in the middle of the room if the door was to open fully. The records also show the COT and POT considered sliding doors were appropriate to free up space in the bedroom, but these were not included in the original plans. There is a lack of clarity over why internally opening doors were fitted rather than sliding doors as recommended by the POT and agreed by the COT.
66. In October 2022, shortly after Ms X moved in, the COT accepted further works were necessary. When all parties met in December 2022, they agreed the adaptations as they stood did not meet Y's needs. When they agreed further works were required, they sought to extend into the kitchen. They focussed on changing what was already there when it was clear the extension was too small. Ms X was concerned the revised proposals still did not meet Y's needs and so had to obtain her own OT and architect reports. It was only on receipt of these that in July 2023, the District Council accepted a further extension was necessary and appropriate to meet Y's needs. It took too long for all parties to agree that they could not adapt what was already in place and that a further extension was required. This delay was fault.

The extent of the adaptations

67. The Councils failed to properly consider Y's needs both in the short and long term, when deciding on the extent of the extension. This was fault. The District Council sought to adapt the property within permitted development rights. This artificially restricted its consideration of what would meet Y's needs and contributed to the COT's error as the COT appeared to believe the extension was the maximum size it could be. The District Council was overly focussed on minimising costs and avoiding the need to apply for planning permission. Whilst it must use public money carefully, and the extension was above the maximum funding for a DFG, in this case it allowed those concerns to override Y's needs. Ultimately this led to significant further costs than if it had ensured the scheme was suitable to meet Y's needs in the first place.

Communication

68. The COT and District Council failed to involve Ms X early enough in the proposals for the scheme to enable her to contribute effectively to the decision-making process. This was fault. The District Council relies on the OT to provide expert input as to what adaptations are necessary to meet an individual's needs. However, as the ultimate decision maker the District Council should make sure it is satisfied the adaptations are necessary and appropriate.
69. The District Council failed to ensure Ms X understood the technical plans before she agreed to them. This was fault. Ms X was not aware the driveway had altered from earlier plans she had seen. Ms X understood the garden would be levelled and believed sliding doors were to be installed. Had the Council ensured Ms X understood the plans it is likely the schedule of works would have been different and more in line with Y's needs and Ms X's concerns would have been addressed much earlier. Ultimately all parties have had to spend more money and time than they otherwise would have needed to.
70. The District Council failed to clarify exactly what works BDHT had agreed to carry out in relation to the garden and driveway and to ensure Ms X understood these and any changes from what was initially agreed. Not levelling the garden and the changes to the driveway may have saved costs but they did not meet Y's needs as Y had no access to the garden beyond entering and exiting the patio and this was not in line with the DFG guidance. The driveway, as initially installed, was not wide enough to accommodate the car and wheelchair and did not meet Y's needs. The records show the COT was also not aware of the changes to the driveway. The COT understood the garden was to be levelled so the plans were not explained clearly to the COT either. The District Council's failure to communicate effectively with Ms X and the COT about the plans was fault.
71. The agencies involved sought to work together to ensure Y's needs were met and held several professional meetings to try and resolve the concerns. However, Ms X was dealing with the District Council, BDHT, the County Council and COT. It would have been good practice to have a single point of contact for Ms X to both keep her updated and for her to feed her views into the process.
72. The building regulations certificate issued by the District Council was wrong as it referred to a ground floor and first floor extension. We have considered the records kept by the District Council's building control team and are satisfied that it carried out the appropriate checks throughout the build and this fault was an administrative error. There was no evidence of fault in the way building control inspected the works.
73. The extension and windows installed met building regulations. However, Y's bedroom was off the kitchen. In normal circumstances the window would be considered a suitable fire exit. However, it was too high and too small to be suitable for Y to use in an emergency and this was confirmed by the Fire Service. The Councils failed to properly consider Y's need to be able to exit safely in the event of a fire in agreeing the adaptations, which is part of the consideration of a DFG. The County Council agreed to fund a replacement window to alleviate Ms X's concerns. However, the failure to consider this sooner caused Ms X frustration and distress.

Injustice

74. The delays in carrying out the original adaptations meant the family was living in a property that was not suitable to meet their needs for longer than necessary. Ms X had to meet Y's nighttime care needs, significantly impacting her sleep, and

had to carry Y downstairs for longer than necessary which also impacted her health. Ms X has been caused significant distress and frustration and had to pay for a private OT report and architect's plans to persuade the District Council its previous plans did not meet Y's needs.

75. This should have been resolved promptly when the family moved into the adapted property in September 2022. However, the original adaptations did not meet Y's needs and further adaptations have been necessary. At the centre of this is a child, who between September 2022 and June 2024, continued to live in a property which did not meet their needs. They could not access the garden to play, and Y's carers have struggled to provide appropriate care in the limited space available. Y also had to stay in respite for six weeks whilst the additional works were undertaken, impacting Y's right to a family life, which is one of the fundamental rights and freedoms under the Human Rights Act 1998.
76. Both Councils have had a part to play in building an extension which did not meet Y's needs. On balance we consider the County Council had greater responsibility in that it should have recognised from the start that the extension was not big enough. However, delay and poor communication by the District Council, and the failure to focus on need before cost, added to the injustice to Ms X and Y and meant it missed the opportunity to address Ms X's concerns sooner.

Recommendations

77. The Councils must consider the report and confirm within three months the action they have taken or propose to take. The Councils should consider the report at their full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (Local Government Act 1974, section 31(2), as amended)
78. In addition to the requirements set out above, the Councils have agreed to take the following action to remedy the injustice caused by the fault we identified:
 - a) The District Council will apologise and pay Ms X £2,000 to acknowledge the distress and frustration caused by its delays and poor communication.
 - b) The County Council will apologise and pay Ms X £4,000 to acknowledge the injustice caused by the failure to ensure the initial plans met Y's needs.
 - c) The District Council and County Council, on a 50:50 basis, will refund to Ms X the cost of her private occupational therapy and architect reports on production of a receipt/invoice.
 - d) The District Council and County Council will each pay Y £500 (a total of £1,000) to acknowledge the direct impact on Y of the Councils' failings.
79. We publish [guidance on remedies](#) which sets out our expectations for how organisations should apologise effectively to remedy injustice. The organisations should consider this guidance in making the apologies we have recommended.
80. It is unlikely that the specific circumstances of this case will arise in future due to Y's complex needs. However, there are still wider points of learning that can be taken from this case and so the Councils have agreed to our recommendations, within three months:
 - a) The District Council will review its procedures to ensure:
 - i. communication with applicants is effective, that plans are clearly explained to applicants, so they understand what adaptations they are agreeing to;

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- ii. any changes to plans are agreed with the OT to ensure they continue to meet the individual's assessed needs and the applicant is made aware of these changes.
 - b) The County Council will meet with Worcestershire Children First to discuss this decision and takes appropriate steps to assure itself that Worcestershire Children First has taken suitable action.
 - c) To ensure there is an agreement between the District and County Council (in consultation with Worcestershire Children First when it is acting on its behalf) as to who should be the specific point of contact for the applicant for major schemes where the adaptations are substantial.
 - d) The County Council agrees to produce a policy requiring its occupational therapists to involve an applicant as early as possible in the adaptations process to ensure the recommendations made are appropriate to meet the assessed needs of the child.

Decision

- 81. We have completed our investigation. There was fault by the Councils causing injustice to Ms X and Y for the reasons set out in the report. The Councils have agreed to take the actions identified in paragraphs 78 to 80 to remedy that injustice.