

Please let my office know if you want any documents you have provided to be returned to you. We routinely destroy our files 15 months after the case is closed.

Yours sincerely,

Greg Phillips
Senior Investigator

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FOOTNOTE

This letter constitutes a report under section 21 of the Public Services Ombudsman (Wales) Act 2005 and is issued under the delegated authority of the Ombudsman.

work needed. You said that you were not willing to do this as you were concerned that if you did this, the Council would not re-plaster the room for some time. You explained that your baby sleeps in the room and you are concerned that he might be exposed to the black mortar for long periods were there a delay in re-plastering the room after you had removed the wallpaper. The Council has told me that it has arranged to re-inspect the room, but there was no one home when its inspector called on 28 May.

While I agree that the Council will need to see the state of the walls in order to decide what work is necessary, I can also appreciate your concerns about your baby's health (albeit the Council has now told me that there is no evidence that black mortar/plaster dust causes a risk to health). I am not convinced that this factor has been fully taken into account by the Council. This has understandably led to you delaying removing the wallpaper and having to live with the current unsatisfactory plasterwork. Failure to take into account all relevant factors when making a decision is maladministration and I therefore uphold this part of your complaint. In my previous letter I proposed to recommend that the Council provides you with assurances that any work will be carried out within a short time of the wallpaper being removed.

In response to my previous letter the Council has said that if once the wallpaper is removed the walls are found to be in a generally poor condition, with the possibility of dust passing through the air of the room, then arrangements could be made to re-plaster the walls within a few days. It seems to me that this is a reasonable response to my recommendation and I hope that this reassures you that were the walls to be found to be in a poor condition the Council will look to carry out the repairs within a short period.

Concluding comments

This letter concludes the investigation of your complaint, and I am sending a copy to the Council. The decisions I have reached are based on evidence provided by you and the Council. There is no appeal available against this decision unless you can provide additional evidence that I have not previously had available to me.

The Ombudsman's office prepares an anonymised summary of every case investigated. The Ombudsman is obliged to report on the work of his office and the summaries can be used in information published by the Ombudsman from time to time, and may be placed on his website. I attach a copy of the summary prepared about your complaint. As you will see, you cannot be identified from the information contained in the summary.

being installed. It apologised and has offered to pay you £10 in recognition of the likely loss of heat from the property.

The Council has acknowledged its failings in this part of the complaint, so I therefore uphold it. The redress proposed by the Council appears appropriate.

Damp in the dining room and kitchen

You complained that the Council had failed to deal with the damp problems in your dining room and kitchen. You said that mould had grown on the walls and that your partner had on occasions felt a "waterfall" running down the inside of the chimney. You said that the Council's own inspectors had also noticed this. In addition, you said that when a vent was drilled in the wall of the chimney, the Council failed to fit a vent cover, instead leaving an exposed hole in the wall.

The Council commissioned a damp specialist to survey the two rooms. The damp specialist found that the problems were being caused by condensation rather than damp. I cannot criticise the Council for following the specialist's report.

The Council has said that its inspectors had seen moisture "glistening" inside the chimney, but not running water. The Council told me that the inspectors had said that in their professional opinion this moisture was caused by condensation.

The Council has said that it now will fit a louvred vent cover to the hole in the chimney albeit I understand that this has been postponed so that its staff can re-inspect the chimney the next time there is significant rainfall.

Given the specialist's report, I cannot criticise the Council for concluding that the mould problem in these rooms is being caused by condensation rather than damp. I am critical of the Council for not fitting a vent cover to the hole in the chimney sooner than it did. I therefore partially uphold this part of your complaint. I recommend that the Council's apologises to you for the delay in fitting the vent cover. The Council has agreed to this recommendation.

Plaster in the front bedroom

You complained that your front bedroom needed to be re-plastered as areas of black mortar had become exposed. The Council states that it told you that you needed to remove all the wallpaper so it could assess the extent of the

The Council said that it had agreed to replace the fence but you refused to agree to the removal of a hedge which, the Council said, needed to be taken out so the fence could be erected. You said that it would have been possible to erect the fence without removing the hedge and were concerned that when the Council had previously carried out works to the boundary with no 61 the contractors removed an ivy bush without your consent. You have since replaced the fence at your own expense (with the Council's agreement).

While I appreciate that you felt the hedge should remain, it was a matter of professional judgment on the part of the Council's staff whether or not it needed to be removed. The Ombudsman is generally unable to question the exercise of professional judgement in the absence of evidence of some failing in the way the decision was made. It follows that I do not uphold this part of your complaint.

Soil/debris in your back garden

You complained that the Council had failed to remove rubbish which had been left in your back garden by the previous tenant and that the Council's contractors had also not removed soil/debris which had been left in the garden when repairs were carried out to the boundary wall with no 61. You said that this has caused the garden to become a quagmire in wet weather and you were also concerned that the rubbish (broken glass, for example) poses a risk to your children. You also said that the contractors who rebuilt the boundary wall told you that your garden would be cleared and landscaped after the works were complete.

The Council says that you were not told that the garden would be landscaped after the work to the boundary wall was done and it also says that any rubble/soil/etc was taken away afterwards. It said that you had lived in the property since 1999 and had not raised any concerns about rubbish being left by a previous tenant until recently.

At this remove I have no way of knowing how and when the rubbish/soil/etc came to be in your garden. I have also not found any evidence to confirm your assertion that you were told that the garden would be landscaped after the work. As such I make no finding on this part of your complaint.

Extractor fans

In its letter to me of 8 March 2010 (a copy of which I sent you on 16 March), the Council acknowledged that there had been a delay in the extractor fans

Analysis

For ease of reference I will deal with each of the issues you raised in turn.

Gate at the top of the steps at the front of the property

You complained that you had been told by an employee of the Council ("Gareth") that the Council would be prepared to install a gate at the top of the steps; however, you were later told that the Council would not fit a gate there. You are concerned that without the gate your children are at risk of falling down the steps.

The Council told me that it is not its policy to fit gates at the top of steps; rather it will only install a gate (as it has done in your case) at the boundary with the street. That said, the Council told me that it would look favourably on any request from you for permission to fit a gate at the top of the steps at your own expense. The Council said that it has no record of any of its staff agreeing that it would install a gate at the top of the steps. It said, too, that it does not have any employee called Gareth based in your local housing office, or, as far as it is aware, in any housing related post.

I cannot criticise the Council for following its own policies and procedures and it has a policy of not installing gates at the top of steps. I note that it has also said it will look favourably on any request from you to fit a gate at your own expense. While I note that you said in your letter commenting on my provisional decision that there was a staff member called Gareth who has since left the Council's employment, it is impossible at this remove to determine what exactly he told you in the absence of any other evidence to support either your or the Council's version of events. I have also not found any evidence that any other members of the Council's staff told you that it would install a gate. I do not uphold this part of your complaint.

Fencing between your back garden and no 57

You complained that the Council had failed to respond to your request for the boundary fence to be replaced. You said that the current fence (which you had erected yourself after your neighbour removed the original fence) had become dilapidated and you were concerned about your neighbour's dogs coming into your garden and threatening you and your children.



Our ref: 200901670/GP

Ask for: Greg Phillips

Your ref:

☎ 01656 641170

Date: 12 July 2010

✉ Gregory.Phillips@ombudsman-wales.org.uk

Ms Cheryl Jenkins
39 Penylan Road
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Blackwood
NP12 0AY

Dear Ms ^{AB} Jenkins

This letter forms the final report of the Ombudsman's investigation into your complaint against Caerphilly County Borough Council .

I have now carefully considered all the information provided by both you and The Council. This letter sets out what I have found during my investigation, and the conclusions I have reached.

I have carefully considered the comments you made (and have made some changes to this letter in light of what you said). I have also considered comments provided by the Council. However, my overall conclusions about your complaint remain unchanged. This letter is therefore my final decision.

Complaint

You complained that the Council had failed to adequately deal with a number of repair issues at your home (which you rent from the Council).

Evidence considered

I have considered very carefully the evidence you provided together with information provided by the Council. I have visited your home to see some of the matters you were complaining about and have also viewed the Council's housing file.