

Scottish Parliament Region: Mid Scotland and Fife

Case 200501141: Perth and Kinross Council

Summary of Investigation

Category

Local government: Housing

Overview

The complainant (Mr C) raised a number of concerns on behalf of his clients, Mr and Mrs D. He alleged that Perth and Kinross Council (the Council) had provided Mr and Mrs D with inaccurate advice in respect of a housing move. They believe that the Council incorrectly advised them to stay in their home. This led to their being taken to court and costs being awarded against them.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Council advised Mr and Mrs D to stay in their Housing Association home despite the Association advising that they would undertake Court proceedings if they remained (*upheld*); and
- (b) the Council cancelled the offer of temporary accommodation with the instruction that they must stay put until the Court Order was issued (*no finding*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) make payment of their offer of £800 to Mr and Mrs D; and
- (ii) review the way advice is provided, and recorded within the Housing and Building Services Department.

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

Main Investigation Report

Introduction

1. On 28 July 2005 the Scottish Public Services Ombudsman Office received a complaint from a Mr C, on behalf of his clients, against the Council. At this time the complainant had not exhausted the Council's own formal complaints procedure and was, therefore, referred back to the Council to ask the Chief Executive to carry out a review. On 1 November 2005 Mr C contacted our office again to advise that he had now exhausted the Council's complaints procedure and remained unsatisfied with their response.

2. Mr and Mrs D lived in tied Housing Association accommodation. This property was tied to the position held by Mrs D. Mrs D retired from her position as warden on 19 March 2004 with her tenancy due to expire on that day. Prior to retiring, on 11 February 2004, an application was made to the Council for re-housing. This was arranged and Mr and Mrs D were to be housed in a new build Housing Association property. There was a delay between the date of retirement and the date of completion of the new build house likely to occur towards the end of May. The Council advised Mr and Mrs D that they would provide temporary accommodation if required to cover the period in between tenancies.

3. The Housing Association did extend Mr and Mrs D's lease until 30 April 2004 but could not extend it further as they needed the property to house their new warden. Mr and Mrs D did not leave the property as requested by the Association and were served with a summons on 7 May 2004 with a calling date of 28 May 2004. It is likely that even if Mr and Mrs D had vacated the property at this stage, the court would still have awarded expenses against them.

4. As a result of the court action Mr and Mrs D incurred expenses of £237.92. Additionally, after Mr and Mrs D's right to occupy the property ceased on 30 April 2004, they became liable to pay the Housing Association a sum equivalent to double the rent and the service charge which amounted to an additional £271.11.

5. The complaints from Mr C which I have investigated are that:

- (a) the Council advised Mr and Mrs D to stay in their Housing Association home despite the Association advising that they would undertake Court proceedings if they remained; and
- (b) the Council cancelled the offer of temporary accommodation with the instruction that they must stay put until the Court Order was issued.

Investigation

6. I have reviewed the correspondence provided by the complainant and have obtained correspondence from the Council. I have held discussions with the Council regarding the case. In the course of these discussions the Council have admitted that their records of advice and offers of temporary accommodation fall short of what is required and have made an offer of redress.

7. I have set out for each of the two main headings of Mr C's complaint my findings of fact, and conclusions. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

(a) The Council advised Mr and Mrs D to stay in their Housing Association home despite the Association advising that they would undertake Court proceedings if they remained

8. Mr C has advised that he believes that Mr and Mrs D were advised by an officer of the Housing Department to remain where they were and not to leave their Association accommodation. Additionally, their local Councillor sent them a note advising that they should 'stay put'; and that it would take the Housing Association weeks/months to raise any paperwork to carry out eviction proceedings, by which time, they should be in their new home.

9. Mr C has also forwarded me a copy of an e-mail from a Housing Officer to the above Councillor advising that the Council have no option but to advise Mr and Mrs D to stay in their current accommodation pending the issue of a Court Order.

10. The Council maintain that they provided advice to Mr and Mrs D based on their needs at the time. They state that there was an offer of temporary accommodation should they need it but that in an attempt to minimise the

disruption, upheaval and expense of moving into temporary accommodation for a short period of time, they advised Mr and Mrs D that their permanent accommodation was likely to be ready before any Court action could be implemented. The Council maintain that this was advice only and that Mr and Mrs D made their decisions in the full knowledge of the likely outcome and costs of their action.

(a) Conclusion

11. It is clear that the Council took the action described above with the best of motives. They were actively trying to find a solution to the problem of Mr and Mrs Ds accommodation. They have accepted that their records of the advice provided were less than satisfactory and that it is not possible for them to establish exactly what was said, and by whom. As a result of this, I uphold the complaint.

12. In acknowledgement of the above failings, the Council have offered to make a payment to Mr and Mrs D of £800 to cover their costs in court, accommodation costs and with an additional sum as a time and trouble payment.

13. The Ombudsman would like to commend the Council for making this offer of payment.

(a) Recommendation

14. The Ombudsman considers that the offer made by the Council is appropriate under the circumstances. However, the Ombudsman also recommends that the Council review the way advice is provided, and recorded within the Housing and Building Services Department.

(b) The Council cancelled the offer of temporary accommodation with the instruction that they must stay put until the Court Order was issued

15. As mentioned above, the Council have accepted that their records on these matters are not as detailed as they would like. However, having reviewed the correspondence I do not believe I have sufficient information to make a decision on what information was provided in respect of cancelling of temporary accommodation. Mr and Mrs D were made aware of the Councils obligations in respect of temporary accommodation. I have no documented evidence to show that the offer of temporary accommodation was withdrawn.

(b) Conclusion

16. As I do not have sufficient evidence to reach a conclusion on this aspect of the complaint, I do not intend to make any findings in this respect.

(b) Recommendation

17. The Ombudsman makes no recommendation on this point.

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

30 January 2007

Explanation of abbreviations used

Mr C	The complainant
Mr D and Mrs D	The aggrieved
The Council	Perth and Kinross Council