

Scottish Parliament Region: North East Scotland

Case 200501971: Dundee City Council

Summary of Investigation

Category

Local government: Funding for *Supporting People* initiative

Overview

The complaint was raised by the Housing Association acting as management agent for the Housing Support Provider (HSP). The Housing Association complained that Dundee City Council (the Council) had failed to properly administer the HSP's application and to resolve the problem once it was identified.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Council failed to award the HSP an interim contract (*upheld*); and
- (b) the Council failed to take action to correct the error once identified (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council award the HSP an interim contract with immediate effect.

The Council have accepted the recommendation and met with the HSP. A way forward has been agreed by both parties and the Ombudsman considers the matter resolved.

Main Investigation Report

Introduction

1. On 18 October 2005 the Ombudsman's office received a complaint from Housing Association 2 acting as management agent for the Housing Support Provider (HSP). Housing Association 2 complained that Dundee City Council (the Council) failed to properly award the HSP an interim contract under the *Supporting People* grant and to fully resolve this problem once it was identified. The HSP owned a small number of properties in the Council area. The HSP had previously complained to the Council through its then management agent, Housing Association 1, using the Council's complaints procedure but remained dissatisfied with the response.

2. The complaints from Housing Association 2 which I have investigated are that:

- (a) the Council failed to award the HSP an interim contract; and
- (b) the Council failed to take action to correct the error once identified.

Legislative and Policy Background

3. *Supporting People* is a UK-wide policy and funding framework for housing support services. *Supporting People* was introduced in April 2003 and in Scotland the Scottish Executive were responsible for introducing the scheme and issuing guidance (the Guidance) under the *Housing (Scotland) Act 2001* and the (*Housing Support Services*) Regulations 2002 (the Regulations). Prior to 2003, housing support services were funded from a number of sources, including the Transitional Housing Benefit Scheme which operated from April 2000 to the introduction of *Supporting People* in March 2003. Formerly a tenant may have received housing benefit to pay both rent and associated service charges (for communal services such as stair cleaning or individual services such as an emergency alarm system).

4. From 1 April 2003 this changed as resources to fund individual support services were transferred to local authorities to be administered through the *Supporting People* fund. Councils now commission or provide appropriate services to meet housing support needs and fund them on a contract basis. Housing benefit continues for rent and building related services.

5. Prior to the introduction of *Supporting People*, Councils were required to assess the existing provision of housing support services and to award temporary contracts to all those who were current providers to those in receipt of the Transitional Housing Benefit Scheme.

6. The guidance issued by the Scottish Executive prior to the launch of *Supporting People* provided the framework for the arrangement of interim contracts. *Supporting People – Strategic Guidance and Interim Guidance, Folder one Part Two Interim Guidance* issued by the Scottish Executive states:

'4.7 Interim Contracts

4.7.1 Local Authorities must issue interim contracts and service level agreements ... effective 1 April 2003, to all organisations providing housing support funded via Transitional Housing Benefit

4.7.2 Identifying all the services funded from the sources listed above will necessitate a transfer of information from Revenues and Benefits sections...'

Investigation

7. Investigation of this complaint involved obtaining and reviewing the correspondence file from the Council and the documentation provided by Housing Association 2. I have reviewed relevant legislation and guidance issued by the Scottish Executive. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Housing Association 2 and the Council have been given an opportunity to comment on a draft of this report.

(a) The Council failed to award the HSP an interim contract; and

(b) The Council failed to take action to correct the error once identified

8. In the latter half of 2002 the Council wrote to the existing housing support services in the area with the relevant paperwork needed to implement the interim *Supporting People* arrangements. The forms required a return to be made for all existing tenants to include an indication of whether or not any tenant was in receipt of interim housing benefit. Housing Association 1 completed and returned the forms on behalf of the HSP. The return indicated that there were no tenants in receipt of transitional housing benefit.

9. The HSP was not given a contract to provide housing support services when the interim *Supporting People* contracts were awarded as none of its tenants were thought to be in possession of transitional housing benefit. The HSP contacted the Council to express concern that this may have an adverse effect on future tenants who might be denied funding. In a letter dated 22 May 2003, the Council advised the HSP that they recognised there might be practical difficulties and that they would be conducting a review of all housing support services (including the HSP) within the first three years of the scheme.

10. In January 2004 a prospective tenant (Tenant 1) of the HSP was advised that she may not be able to access funding from social services for the housing support services element of her rent because the HSP had no contract with the Council. Housing Association 1 wrote to the Council seeking to raise the problem with them. On 20 February 2004 the Council wrote to Housing Association 1 advising that funds would not be made available for Tenant 1 as the HSP did not currently have a contract with the Council to provide housing support services. The letter once again referred to the review of all housing support services that was to be undertaken. Tenant 1 was, therefore, unable to take up the offer of a place and complained to the HSP who responded that the fault lay with the Council and assured her that they would pursue the matter with them.

11. In August 2004 it became known that in fact one tenant (Tenant 2) of the HSP was, and had been for several years, in receipt of transitional housing benefit. Housing Association 1 raised this problem with the Council on 26 August 2004 as Tenant 2 was being advised that payments would be reduced because the HSP had no contract with the Council. The Council agreed that in the circumstances Tenant 2 would receive the *Supporting People* grant as if the HSP did have a contract and notified Housing Association 1 of this on 22 October 2004.

12. On 26 October 2004, Housing Association 1 wrote to the Council pointing out that the HSP had not been awarded a contract originally because no tenant was thought to be in receipt of transitional housing benefit – this was now known to be incorrect and it argued that the Council should, therefore, now award a contract. Housing Association 1 also noted the problems that had occurred with respect to Tenant 1. The Council responded on 1 November 2004 that they would not be awarding any additional contracts until the review of all housing support services

was complete. The Council stated that they would consider the situation for any other tenants in the same situation as Tenant 2.

13. The HSP remained unhappy with this response as they considered that the Council should have awarded them an interim contract from 1 April 2003. The HSP considered that they could not be expected to know the exact financial status of every tenant. The HSP had no authority to obtain such specific information from a tenant. The HSP considered that as the Council had access to this information it should have been aware that one of their tenants was in receipt of transitional housing benefit. The HSP raised a formal complaint to this effect with the Council on 11 February 2005.

14. The Council's final response dated 26 May 2005 stated that the Council considers they acted properly in the run up to the awarding of contracts in April 2003 and they had reacted appropriately in entering into a contract for Tenant 2. The HSP remained unhappy and through their new management agent, Housing Association 2, brought a complaint to this office.

15. In response to enquires from this office the Council stated that prior to April 2003 it had canvassed all known providers of housing support services asking each to identify individuals in receipt of housing support through transitional housing benefit and that the HSP had not identified any such individual. The Council submitted returns to the Scottish Executive detailing costs based on the returns from all the service providers and the grant allocated to the Council was based on those costs. The Council referred to the ongoing review of services which was due to complete phase one (Local Authority provision) by the end of 2006 with phase two (other services including the HSP) following.

16. The Council also stated by way of background that the current projections suggested that there may be as many as 1,000 surplus sheltered housing places in Dundee and that in this circumstance it would be unlikely that the Council would be seeking to contract for additional housing support services in the future.

(a) and (b) Conclusion

17. The HSP could not reasonably be expected to know the financial affairs of all their tenants and acted in good faith at all times. The Guidance, 4.7, states that an

interim contract must be issued to an organisation providing housing support which was funded by transitional housing benefit and as such a contract should have been awarded to the HSP by the Council. The Council have stated that it acted as it did because of the information it held at that time. However, the Guidance also sets out the need for sharing information between different parts of the Council and I have seen no evidence that such sharing of information took place. I consider that the relevant information was available within the Council and that the Guidance did expect that information sharing would occur. I accept that the Guidance did not make any specific provision for the situation which has arisen here and that the Council is not able to retrospectively seek an increase in its grant from the Scottish Executive to cover any payments to the HSP. However, I conclude that there was a failure on the part of the Council to properly administer the interim arrangements for *Supporting People* and to address the problem for the HSP once it was aware of the problem. I uphold this complaint in its entirety.

(a) and (b) Recommendation

18. The Ombudsman recommends that the Council award an interim contract to the HSP with immediate effect and apologise for the errors identified in this report.

The Council have accepted and acted on the recommendations.

30 January 2007

Explanation of abbreviations used

HSP	The Housing Support Provider – the Aggrieved
Housing Association 1	The management agent for the HSP prior to the complaint being made to this office
Housing Association 2	The current management agent for the HSP – the Complainant
The Council	Dundee City Council
The Guidance	The scheme and issuing guidance
The Regulations	(Housing Support Services) Regulations 2002

Glossary of terms

Supporting People	A UK wide policy and funding framework for housing support services
Transitional Housing Benefit	The system of housing benefit which operated from April 2000 to the introduction of Supporting People in March 2003

List of legislation and policies considered

Housing (Scotland) Act 2001

(Housing Support Services) Regulations 2002

Supporting People – Strategic Guidance and Interim Guidance, Folder one, Part Two: Interim Guidance issued by the Scottish Executive