

**Case 200501752: The City of Edinburgh Council**

**Summary of Investigation**

**Category**

Local government: Housing

**Overview**

The complainant (Ms C) raised a number of concerns that the City of Edinburgh Council (the Council) failed to carry out works which, under the tenancy agreement, they were obliged to do. This resulted in her grandmother (Mrs D)'s home being broken into and both her grandmother and herself suffering racial abuse. Additionally, Ms C feels the Council failed to respond appropriately to her complaints about their treatment. Ms C states that her grandmother was forced to give up her tenancy as a result of the racial abuse and has lost monies she had spent in renovating the house prior to giving up the tenancy.

**Specific complaints and conclusions**

The complaints which have been investigated are that the Council:

- (a) offered Mrs D a house which was not habitable (*not upheld*);
- (b) failed to carry out works which they are required to do under the Tenancy Agreement (*partially upheld*);
- (c) failed to take action to address racial harassment Mrs D was experiencing, in particular, they failed to promptly remove racist graffiti (*not upheld*); and
- (d) failed to provide details of their Racial Harassment procedure when requested to do so (*upheld*).

**Redress and recommendations**

The Ombudsman recommends that the Council:

- (i) highlight to officers the importance of maintaining written records of contacts with tenants and potential tenants, in particular in respect of missed appointments;
- (ii) review their adherence to their documented repairs policy;
- (iii) highlight to staff the importance of ensuring good communication between staff and members of the public; and
- (iv) ensure that sufficient training has been carried out to ensure that staff are familiar with their responsibilities under the Council's Racial Harassment

procedure.

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

## **Main Investigation Report**

### **Introduction**

1. On 29 September 2005 the Scottish Public Services Ombudsman received a complaint from the complainant (Ms C) on behalf of her grandmother (Mrs D) against the City of Edinburgh Council (the Council). Ms C complained that the Council failed to provide Mrs D with a house which was safe and in a suitable condition and failed to carry out requested repairs within the Council's written timescales. This, Ms C believes, resulted in Mrs D suffering a break-in and both Mrs D and Ms C suffering racial harassment.
2. As a result of the above, Mrs D has had to move from her home to stay with relatives. Ms C believes that her grandmother should be refunded the costs she had accrued in bringing the house up to an acceptable standard.
3. The complaints from Ms C which I have investigated are that the Council:
  - (a) offered Mrs D a house which was not habitable;
  - (b) failed to carry out works which they are required to do under the Tenancy Agreement;
  - (c) failed to take action to address racial harassment Mrs D was experiencing, in particular, they failed to promptly remove racist graffiti; and
  - (d) failed to provide details of their Racial Harassment procedure when requested to do so.

### **Investigation**

4. I have examined the correspondence forwarded by the complainant, reviewed relevant policies and made enquiries of the Council both in writing and by telephone. I have also reviewed evidence supplied by the Council. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked.

#### **(a) The Council offered Mrs D a house which was not habitable**

5. On 7 January 2005 both Ms C and Mrs D viewed the property with a Housing Officer from the Council. A Scottish Secure Tenancy Agreement was signed by Mrs D on 10 January 2005. The date of entry was delayed until 7 February 2005 to allow Mrs D's family time to arrange the move.
6. The house was cleaned and new doors were installed in a number of rooms. Additionally, kitchen units were moved to accommodate Mrs D's fridge

freezer and cooker. The Housing Officer checked the property again on 20 January 2005 and contacted Ms C to arrange an appointment to proceed with the final checks. This appointment was made for 27 January 2005. Unfortunately, Ms C did not attend that appointment and another was arranged for 8 February 2005. The Council have provided evidence to indicate that the earlier appointment was missed.

*(a) Conclusion*

7. The Council have accepted that the property was in need of decoration. They believe, however, that all pre-agreed repairs had been carried out prior to the start of the tenancy. I have no evidence to suggest otherwise. Other issues were identified later when Mrs D had taken over tenancy of the house. As Mrs D accepted the property in the condition it was in at the viewing, and as the Council had resolved the repairs identified prior to the start of the tenancy, I do not uphold this aspect of the complaint.

*(a) Recommendation*

8. The Ombudsman makes no recommendations on this point.

**(b) The Council failed to carry out works which they are required to do under the Tenancy Agreement**

9. The procedure for maintenance and repairs of Council tenants' homes is detailed in the Tenancy Agreement and the Council's repairs policy.

10. There are records of many requests for repairs to Mrs D's home and I do not intend to list them all. Whilst a tenant of the Council, Mrs D had two main areas of complaint against the Council repairs team. These were:

- the gas leak;
- the boarded up bathroom window.

*Gas Leak*

11. An appointment had been made for 27 January 2005 for Ms C to attend the property to enable final checks to be carried out. The Council have advised that Ms C did not attend this appointment and that another had to be arranged for 8 February 2005. At the appointment on 8 February a Council officer turned on and tested the gas system at the property, it was identified that there appeared to be a leak. Transco were called to attend.

12. A Transco engineer attended the same day and repaired a fault. The engineer also identified a leak in a part of the gas system for which the Council was responsible and turned the gas supply off as a precaution. Ms C has also advised that the engineer turned the electrical supply off. I am unable to identify why the Transco engineer turned the electrical supply off as this should not have been necessary had the gas supply been correctly isolated.

13. Ms C then contacted the Council and it was arranged that a Council gas engineer would attend on 15 February 2005. She waited for some hours on the morning of the appointment for the engineer to arrive. Ms C then contacted the Council to enquire as to the whereabouts of the engineer and was advised that, due to an error, the request for an engineer had not been correctly recorded on the Council's systems. After discussion with an officer from the gas section of Repairs Direct, it was agreed an engineer would call the next day. The next day the engineer identified and fixed two gas leaks.

14. Ms C has complained that her grandmother could not move into the property when there was no gas or electricity supply, especially given the time of year and the obvious need for heating.

15. It is clear that there was a delay of one day in repairing the gas system. The Council engineer failed to attend as advised on 15 February 2005, but did attend the next day. I consider that the time between the problem being identified on 8 February and repaired on 16 February 2005 was not unreasonable.

16. The Council have advised that an offer of temporary heating was made although Ms C denies this. I do not have evidence to prove such an offer was made.

17. Since beginning my investigation, I have been advised that at the time in question, Mrs D was in fact abroad and was not available to move into her home.

### *Conclusion*

18. There was a delay of one day in repairing the gas leak because of an error recording the request on the Council's system. The Council have advised that the electricity was available during this period and that an offer of temporary heating was made. This offer cannot, however, be verified. Despite this, I do

not believe that there is any evidence of injustice to Mrs D as she appears to have been out of the country at the time. For these reasons I do not uphold this aspect of the complaint.

*Recommendation*

19. The Ombudsman recommends that the Council highlight to officers the importance of maintaining written records of offers of emergency heating such as that mentioned above.

*Bathroom window*

20. Prior to the agreed date of entry it was identified that works had to be carried out to the sash on the bathroom window. A works order was raised by the Council for repairs to be carried out on 1 February 2005. This had a two week priority rating and was due for completion on 14 February 2005. According to the Council, Ms C did not attend on at least two occasions to allow them access to carry out repairs. Ms C disputes this. The Council have not provided any evidence to show Ms C's failure to attend. The window was not finally repaired until 6 May 2005.

*Conclusion*

21. From the information I have reviewed I do not believe that the works to carry out repairs to this window were carried out within a satisfactory timescale. Although the Council have advised that Ms C did not attend to allow access to carry out the works, I have not been provided with evidence to show this.

22. The Council's repairs policy identifies a 20 working day maximum time for completion of tasks such as repairing a window. The Council clearly failed to carry out the repairs in the required timescale. As a result of this, I uphold this aspect of the complaint.

*Recommendation*

23. The Ombudsman recommends that the Council review their adherence to their documented repairs policy. Additionally, the Ombudsman recommends that the Council ensures that they record in detail all instances of missed appointments both by Council employees and tenants.

*Further comments*

24. From the time the initial problem with the bathroom window was identified in January 2005 until it was repaired in May 2005, the bathroom window was

boarded up for safety reasons. Despite this, the house was broken into through this window on 29 April 2005. Ms C has raised concerns that the condition of the window increased the likelihood of the house being broken into. I am unable to make a judgment on whether this action increased the likelihood of the house being broken into.

25. Damages and losses which occurred as a result of the break-in are the responsibility of Mrs D's insurers.

**(c) The Council failed to take action to address racial harassment Mrs D was experiencing, in particular, they failed to promptly remove racist graffiti**

26. On 29 April 2005 Mrs D's home was broken into. According to Ms C, on the same day as the break-in, racist graffiti appeared on a window sill at her home. The Council have advised me that the graffiti was not reported until 13 May 2005. However, included with other documentation they have sent me were copies of earlier correspondence to them dated 9 and 11 May 2005 which detail the graffiti. The graffiti appears to have been removed soon after being reported, although there is some disagreement as to when this actually happened. The Council have stated that the graffiti was 'limited to a small area on the exterior of a window sill which was not in public view'. However, I consider that these comments were not helpful. The graffiti was offensive and was in an area which could be observed. Whilst the size of the lettering was not great, this does not diminish the upset which was caused.

27. Ms C stated in the correspondence that she had previously mentioned an incident of verbal abuse in a telephone call to a member of staff in respect of an unrelated matter. She did not know the identity of the abusive individuals.

28. The Council operates a policy to ensure that racial harassment is dealt with appropriately by staff. In this case, after the initial reports of the graffiti and subsequent details of further incidents of harassment, the Council arranged a case conference to be held on 29 June 2006 to discuss Mrs D's housing situation and the harassment she had been experiencing. Those in attendance at this meeting included Mrs D's local Councillor, two senior housing officers from the Council including a Community Safety Officer and police officer. At this meeting it was agreed that Mrs D would remain living with her family until such a time as a new home was found for her. Alternatives such as sheltered housing were discussed but Mrs D stated that a 2 bedroom property was

required to allow a supporting family member to stay with her. It was explained to Mrs D that there could be a long wait for such a property.

29. It was also explained at this meeting that the racial harassment issues would be raised with the alleged perpetrator. This, Ms C believed, was Mrs D's neighbour who it was alleged had carried out the break-in. This individual was charged by the police with breaking and entering. Additionally the Council issued a warning letter to him. There have been no subsequent reports of anti-social behaviour from this resident.

30. The Council's Racial Harassment procedures as documented within the Housing Management Procedures provide details of the action to be taken by the Council when becoming aware of racial harassment. Ms C believes that the Council became aware of the graffiti for the first time on 29 April 2005 when they attended to repair the bathroom window. The earliest confirmation I have of a report of graffiti is on 9 May 2005, and Ms C has stated that officers removed the graffiti on the 9 May 2005. On 18 May 2005, and in answer to a letter from Mrs D's Councillor, the Area Manager advised that the Senior Housing Officer was working in partnership with a worker from a local advice agency to try and arrange for a case conference. During this period, Mrs D was living with her family and not experiencing harassment. The case conference was held on 29 June 2005.

31. At this case conference it was decided that Mrs D would stay with her son and make a new application for housing in another area.

*(c) Conclusion*

32. From the evidence I have reviewed I do not believe that the Council failed to take action to address the racial harassment experienced by Mrs D. Although there is some confusion concerning the dates the graffiti was first reported and its subsequent removal, I consider that the Council acted to remove the racist graffiti within a reasonable time scale. Additionally, the Council have taken action in respect of the behaviour of Mrs D's neighbour.

33. The Council did take action to address Mrs D's concerns culminating in the case conference of 29 June 2005. It is regrettable that the best option at that stage appears to have been for Mrs D to give up the tenancy and stay with relatives until a new home could be found. Mrs D was granted special harassment points, however, these were removed when it was agreed to



reinstate her points allocation and backdate her application to 4 March 2004. As a result of this, I do not uphold this aspect of the complaint.

*(c) Recommendation*

34. The Ombudsman makes no recommendation on this issue.

**(d) The Council failed to provide details of their Racial Harassment Procedure when requested to do so**

35. In her letter of 9 May 2005 to the Area Manager, Ms C requested that the Council forward her a copy of the Council's Racial Harassment procedure. Additionally, on 1 June 2005 she requested that a member of staff from the Racial Equality Unit contact her.

36. It appears from the correspondence that neither requests were actioned. Although Ms C requested a member of staff from the Racial Equality Unit contact her, the Council did ensure that she met with a Community Safety Housing Officer. The failure of the Council to provide Ms C with a copy of the Council's Racial Harassment procedure may be in breach of the Freedom of Information (Scotland) Act 2002.

*(d) Conclusion*

37. As the Council failed to provide a copy of their Racial Harassment procedure and details of a contact within their Equalities Unit (which includes racial equality) when requested, I uphold this aspect of the complaint.

38. Although I consider that the Council did take action to ensure that Mrs D and Ms C's concerns regarding racial harassment were addressed by ensuring that she had contact with the Communities Section of the Housing Office, I am of the view that there has been a failure to provide a point of contact in the Equalities Unit as requested by Ms C. If this was not the appropriate way for Ms C to pursue her concerns then this should have been highlighted to her.

*(d) Recommendation*

39. The Ombudsman recommends that the Council highlight to staff the importance of ensuring good communication between staff and members of the public. Additionally the Council should ensure that sufficient training has been carried out to ensure that staff are familiar with their responsibilities under the Council's Racial Harassment procedure.

20 June 2007

**Explanation of abbreviations used**

Ms C	The complainant
Mrs D	The tenant and grandmother of the complainant
The Council	The City of Edinburgh Council