

## Scottish Parliament Region: North East Scotland

### Case 200600696: Angus Council

#### Summary of Investigation

##### **Category**

Local government: Right to Buy

##### **Overview**

The complainant, Mrs C, said that she moved house on police and social work advice. She complained that she had lost her Right to Buy discount, despite the fact that she was reassured after making specific enquiries on this point, that it would be unchanged.

##### **Specific complaint and conclusion**

The complaint which has been investigated is that Mrs C lost her Right to Buy discount, despite the fact that she was reassured, after making specific enquiries on this point, that it would be unchanged (*upheld*).

##### **Redress and recommendations**

The Ombudsman recommends that if Mrs C wishes to purchase her council house, she is able to do so on terms equivalent to those which would have applied had she retained her Right to Buy discount. Further, that the Council take steps to ensure that a process is put in place to provide tenants with written advice, in advance of any new tenancy, of possible changes to their Right to Buy discount.

## **Main Investigation Report**

### **Introduction**

1. On 14 June 2006, Mrs C complained to the Ombudsman about the fact that she had lost her Right to Buy discount. She said that after her young daughter was stabbed with a syringe, she had no choice but to move house. She said that this was on the advice of police and the social work department. She complained that she lost her Right to Buy discount despite the fact that she was reassured, after making specific enquiries on this point, that it would be unchanged.

2. The complaint from Mrs C which I have investigated is that Mrs C lost her Right to Buy discount, despite the fact that she was reassured, after making specific enquiries on this point, that it would be unchanged.

### **Investigation**

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mrs C, her solicitor and Angus Council (the Council). I have spoken to Mrs C and have also had sight of correspondence from Mrs C's MSP, her MP and the Council's Chief Executive; a Housing Visitor's Report; Mrs C's Housing Application form dated 10 June 2002; her Special Needs and Medical Assessment form dated 16 September 2002 and the associated assessment by the Council's medical adviser. I have also seen information produced by the Council in relation to the Housing (Scotland) Act 2001, Scottish Secure Tenancy Agreement and the leaflet, 'Buying your Council House'. I have considered the appropriate sections of the Housing (Scotland) Act 2001. On 5 October 2006 a written enquiry was made of the Council and their response was dated 6 November 2006.

4. While I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mrs C and the Council were given an opportunity to comment on a draft of this report.

**Complaint: Mrs C lost her Right to Buy discount, despite the fact that she was reassured, after making specific enquiries on this point, that it would be unchanged**

5. Mrs C stated that she previously lived in an area with drug problems and, in Spring 2002, when her young daughter was playing outside, she was stabbed in the back with a syringe. Her daughter was taken to hospital and was

subsequently required to be tested for HIV. Mrs C said that police and social work advice was that her child should not be allowed to play outside and that she should seek a move. Mrs C and her family ultimately moved to their current accommodation, signing a tenancy agreement on 2 December 2002.

6. Mrs C said that as she knew that there were changes in the housing legislation, when the offer of the house was made, she asked how this would affect her. She said that she was told that given the circumstances, it would make no difference to her Right to Buy discount. However, during the investigation, she confirmed that her main concern was her family's safety and even if she had been told that her discount would be reduced, she would still have moved. Nevertheless, she claimed that was not the information given to her.

7. Mrs C had since applied to buy her house but had been told that the discount she anticipated would be significantly reduced as her tenancy commenced after 30 September 2002 and was now governed by the Housing (Scotland) Act 2001.

8. In their response to me dated 6 November 2006, the Council said that Mrs C's application for transfer was submitted on 12 June 2002 and that it was awarded grade B priority status by the Council's medical adviser. I have seen a copy of that assessment (paragraph 3). On 19 November 2002, Mrs C was then offered her present home on medical grounds and she signed her tenancy agreement on 2 December 2002. The offer letter made reference to the fact that the property was one that, '...was either first let after 31 March 1992 or in respect of which improvements have been carried out which may have an effect on the calculation of any selling price to be fixed in terms of the Housing (Scotland) Act 1987. The exact effect cannot be calculated until any request is made to purchase'. There was no mention of the effect that the Housing (Scotland) Act 2001 may have had.

9. With regard to Mrs C's specific allegation that her Right to Buy discount would be unchanged, the Council said that, 'Following the changes to the Housing (Scotland) Act 2001 when a tenant signs a new tenancy agreement the terms and conditions of the modernised Right to Buy changes are explained to them at the time'. The Council also made the point that the tenancy agreement would be explained fully at the time of signing; that the agreement formed part of a tenancy pack together with a leaflet entitled 'Buying your Council House'.

10. As part of this investigation I have also considered the terms of Part 23 (4) of the Housing (Scotland) Act 2001. Amongst other things, this states that, 'Before the creation of a Scottish secure tenancy the landlord must provide the tenant with information about - (a) the tenant's right under Part III of the 1987 Act to purchase the house which is the subject of the tenancy,...'.

### *Conclusion*

11. Mrs C said that she was reassured that her Right to Buy discount would be unaffected by her move to another house although the Council maintained that this was not the case. I am unable to reconcile these statements. However, from the evidence available to me, particularly the offer letter dated 19 November 2002 and information concerning the procedure and tenancy pack given to the tenant *at the time of signing* (my italics, paragraphs 8 and 9), it is clear that Mrs C was not advised of the effects of the move on her discount before the creation of her new tenancy. I have, therefore, concluded that insufficient time was given to allow proper consideration of the implications of the change of tenancy on Mrs C's Right to Buy. In all the circumstances I conclude that the Council's procedures were insufficiently robust and that Mrs C was not properly advised. I uphold her complaint.

### *Recommendations*

12. I accept that Mrs C would have moved anyway (paragraph 6) but, nevertheless, she was entitled to receive appropriate information from the Council in a timely manner. Given that she did not, the Ombudsman recommends that if Mrs C wishes to proceed with the sale of her house, she is able to do so on terms equivalent to those which would have applied had she retained her Right to Buy discount.

13. In addition, the Ombudsman recommends that the Council takes steps to ensure that a process is put in place to provide tenants with written advice, in advance of any new tenancy, of possible changes to their Right to Buy discount.

24 October 2007



**List of legislation and policies considered**

The Housing (Scotland) Act 2001