

Scottish Parliament Region: Highlands and Islands

Case 200800277: Scottish Government Housing and Regeneration Directorate

Summary of Investigation

Category

Scottish Government and Devolved Administration: Handling of application

Overview

The complainant (Mrs C) raised a number of concerns regarding Communities Scotland¹ (the Grant Provider)'s handling of her application for a Rural Home Ownership Grant (RHOG). Mrs C complained that the Grant Provider and their local agents, failed to follow the correct procedures when processing her application and that communication from the two agencies was poor.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Grant Provider failed to follow their own guidelines when considering Mrs C's RHOG application (*upheld*); and
- (b) communication from the Grant Provider was poor (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Scottish Government Housing and Regeneration Directorate:

- (i) ensure that their agents fully understand their responsibilities with regard to RHOG applications, in particular by ensuring that all applications meet the required criteria and are fully completed prior to submission;
- (ii) produce clear guidelines for their agents on presenting a case for consideration of applications with special circumstances;
- (iii) require all RHOG applicants to have read and agreed their complete application before signing;

¹ In April 2008, Communities Scotland was abolished and responsibility for RHOG applications was taken over by the Housing and Regeneration Directorate of the Scottish Government. All issues considered in the report relate to the actions of the Grant Provider and the Agent, however, the report's findings have been presented to the Housing and Regeneration Directorate for their consideration.

- (iv) review Mrs C's case to identify any areas where communication between themselves and the Agent could have been improved; and
- (v) formally apologise to Mrs C for the confusion and delay surrounding her RHOG application.

The Scottish Government Housing and Regeneration Directorate have accepted the recommendations and will act upon them accordingly.

Main Investigation Report

Introduction

1. The complainant (Mrs C) and her husband (Mr C) rented a property in a rural location in the Orkney Isles. The property was owned by Mrs C's sister (Mrs A). Mrs A agreed to sell the property to Mr and Mrs C. In December 2006, Mrs C was advised by an agent (the Agent) used by Communities Scotland (the Grant Provider) to process applications, that there was a strong possibility that she would be eligible for a Rural Home Ownership Grant (RHOG). She obtained the required property valuations, mortgage agreement and proof of earnings, which were submitted, by the Agent, to the Grant Provider. Mrs C's RHOG application was refused by the Grant Provider on the basis that the property's value had not been adequately tested and on their conclusion that Mr and Mrs C could not afford to repay the mortgage that their bank had agreed to provide.

2. Mrs C believed that the Grant Provider's decision was based on incomplete information. She understood that, initially, partial information had been forwarded to the Grant Provider on her behalf and that the subsequent provision of new information had led to her integrity as an applicant being compromised. Mrs C complained to the Agent in November 2007. Dissatisfied with the responses that she received from the Agent and the Grant Provider, she brought her complaint to the Ombudsman in May 2008.

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

- (a) the Grant Provider failed to follow their own guidelines when considering Mrs C's RHOG application; and
- (b) communication from the Grant Provider was poor.

4. In April 2008, Communities Scotland was abolished and responsibility for RHOG applications was taken over by the Housing and Regeneration Directorate of the Scottish Government. All issues considered in the report relate to the actions of the Grant Provider and the Agent, however, the report's findings have been presented to the Housing and Regeneration Directorate for their consideration.

5. As the Agent acting on behalf of the Grant Provider for the purposes of processing RHOG applications, I consider the Grant Provider to be accountable for the Agent's actions and this is reflected in the report's conclusions. All

complaints against the Grant Provider consider their and the Agent's actions jointly.

Investigation

6. In order to investigate this complaint, I reviewed the correspondence between Mrs C, the Grant Provider, the Agent and other interested parties. I also interviewed Mrs C by telephone, reviewed the documentation submitted along with her RHOG application and sought additional information from the Grant Provider.

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

(a) The Grant Provider failed to follow their own guidelines when considering Mrs C's RHOG application; and (b) communication from the Grant Provider was poor

8. The RHOG scheme was introduced by the Grant Provider to make it possible for people on low incomes, living in rural areas, to purchase or build their own homes. The Grant Provider has agreements in place with agencies around Scotland, who act as local offices for administering RHOG grant applications. The Agent was Mrs C's local agent. RHOGs are means tested and applicants are required to provide details of their income and savings. The grant awarded is normally the minimum amount necessary for the applicants to be able to purchase their property, up to a maximum of 33% of the property's value.

9. The RHOG application process has two stages, RHOG1 and RHOG2. The RHOG1 stage involves completion of an application form, detailing the required financial information and obtaining valuations of the property to be purchased, or construction work to be carried out. The Grant Provider publishes an internal procedure note (the Guidance) which provides information to local agents as to how to administer and assess RHOG applications. A separate information leaflet is available to RHOG applicants. It explains that, following submission of the RHOG1 application form, the Grant Provider or their agent will make a decision in principal within six weeks as to whether or not a grant will be awarded. The decision is communicated to the applicant in writing.

10. Successful applicants progress to the RHOG2 stage, which requires completion of a more detailed application form. Applicants are asked to provide exact costs, and in the case of new property developments, competitive quotes and detailed design specifications. Again, once this information is received by the Grant Provider, applicants are contacted in writing within six weeks. If their application is successful, a formal offer of grant is made.

11. Mr and Mrs C are both self-employed with a low combined income. They rented a property from Mrs C's sister, Mrs A. Mrs A agreed to sell the property to Mr and Mrs C in 2004. Mr and Mrs C were unable to provide adequately detailed self-employment accounts until 2006. In December 2006, Mr and Mrs C used their improved self-employed accounts to apply for a mortgage. A mortgage of £65,000.00 was subsequently approved in principal via their financial adviser in March 2007.

12. Mrs C told me that she was advised by the Agent that she was a strong candidate for RHOG approval. She obtained information from the Agent as to what information she and Mr C would be required to provide. As self-employed applicants, they were asked to provide full audited accounts for the preceding three years. Mrs C told me that these were provided in December 2006, as requested, and that the Agent advised them to obtain a valuation of the property. The property was valued at £95,000.00 in January 2007, however, Mr and Mrs C had agreed a lower purchase price with Mrs A.

13. Mr and Mrs C completed and signed an RHOG1 application form on 8 June 2007. In the income assessment section of the application form, Mr C's gross annual earnings were recorded as £7,000.00 and Mrs C's as £5,800.00. It was recorded that they had secured a mortgage of £65,000.00. The application was submitted to the Grant Provider by the Agent on 19 June 2007 along with their own appraisal and endorsement of the application. The cover letter that the Agent sent with the application noted 'I still have to get final income details from' Mr and Mrs C.

14. The Grant Provider wrote to the Agent on 20 June 2007 to request further information in support of Mr and Mrs C's application. They noted that the couple's combined income was around £13,000.00, but that they had secured a mortgage of approximately five times their income. Concerned about their ability to repay the mortgage, the Grant Provider requested confirmation of Mr and Mrs C's exact annual income, the monthly repayments that would be

required for their mortgage, the monthly amount that they currently paid in rent and details of any benefits or tax credits that they may be receiving. The Grant Provider also noted that the valuation survey for the property had highlighted external cracking. The surveyor had suggested obtaining an engineer's report on the damage. The Grant Provider asked whether this had been done and suggested that it would be beneficial to have a formal statement on record as to the cause of the cracks.

15. The Agent responded to the Grant Provider's letter, via email on 22 June 2007. They explained that Mrs C ran a business, which she set up with Mrs A in 2005. They operated at a loss in the first year and made a profit of £14,114.00 in the second year (half of which was Mrs C's income). At the time of submitting their RHOG application they did not have full accounts for 2007, however, these were projected to be an improvement on the previous year. As such, their mortgage was agreed on the basis of affordability. The Agent further explained that Mr and Mrs C paid Mrs A £287.18 per month in rent and that their mortgage payments would be around £400.00. It was noted that Mr and Mrs C received child benefit and that they were in the process of applying for Working Family Tax Credits. The Agent confirmed that they were in receipt of an engineer's report, which stated that the external cracking detailed in the valuation survey was caused by shrinkage and was not problematic.

16. The Grant Provider remained concerned over Mr and Mrs C's ability to repay their mortgage and asked the Agent to forward copies of any formal offers of mortgage that the applicants may have received. They also asked for clarification as to whether the mortgage had been arranged directly with the lender, or via a financial adviser, and whether the lender had been satisfied of Mr and Mrs C's ability to cover the repayments.

17. On 26 June 2007, the Agent emailed the Grant Provider and explained that Mr and Mrs C did have a formal offer of mortgage, but that this had now expired. They noted the length of time that the application was taking and advised that Mr and Mrs C were now reapplying for a mortgage to secure another formal offer.

18. On 5 July 2007, the Agent wrote to Mrs C to request further information regarding her income. They explained that the Grant Provider would normally require evidence of the previous three years' income, however, noted that she had only been in business for two years. Mrs C was asked to provide copies of

her bank statements for the period between April 2006 and March 2007, to show her income.

19. Mrs C secured a second mortgage agreement on 27 July 2007. Prior to this, she provided the requested bank statements. The Agent submitted a revised RHOG1 application form to the Grant Provider on 20 July 2007. Their accompanying cover letter noted that, based on the amounts paid into her bank account, Mrs C's income from the business that she ran with Mrs A was estimated to be £7,000.00 for 2006/2007, as it had been in 2005/2006. Mr C's income was recorded as £4,617.00 for the year to date. The cover letter and revised RHOG1 application form noted that Mrs C had a second income from a business that she ran herself. This earned her an estimated £9,100.00 for 2006/2007. The Agent stated that she had earned around £2,000.00 more than this the previous year.

20. The Grant Provider emailed the Agent on 10 August 2007, requesting a copy of Mrs C's full accounts for the 2006/2007 financial year. They noted that she had a partnership income as well as a self-employed income, which had not been declared on the first RHOG1 application form. The Grant Provider also referred to a meeting that they had had with the Agent, where it was agreed that there were issues with Mr and Mrs C's ability to afford their mortgage. The Grant Provider commented that, as Mrs C's income was now effectively £9,100.00 higher than previously noted, then it should be expected that their level of mortgage should also increase. Such an increase in the level of mortgage available to purchase the property would result in a lower amount of RHOG funding being required.

21. The Grant Provider used an independent individual (the Contractor) to screen RHOG applications from the Agent, prior to their submission to the Grant Provider. On 3 September 2007, email correspondence was exchanged between the Contractor and the Agent, suggesting that an RHOG2 report had been submitted in support of Mrs C's application. The Contractor noted that certain essential documents, such as RHOG1 approval, the RHOG2 application form, mortgage details and proof of earnings had not yet been provided. The Agent replied in an email dated 4 September 2007, explaining that they had all of the required information, apart from the proof of earnings. They clarified that the RHOG1 application had not yet been approved. The Contractor replied later the same day and suggested that no further action was taken until all of the required information was available.

22. A further email from the Contractor to the Agent, dated 2 October 2007, acknowledged receipt of Mr and Mrs C's full accounts, but noted that the rest of the documentation to support the application had not yet been submitted.

23. On 5 October 2007, the Contractor sent a detailed email to the Agent, stating that she was continuing to have difficulty interpreting the information that she had been provided with regarding Mr and Mrs C's earnings. She noted that, in Mr C's case, only the Agent's estimate of income, based on deposits made into his bank account, had been submitted. The amount of £4,617.00 that the Agent had initially put forward as Mr C's earnings for 2006/2007 did not match the amount detailed on the revised RHOG1 application form (£4,270.00). It was noted that no evidence had been provided to support the Agent's advice that Mr C had earned £5,474.00 in 2006. The Contractor suggested that tax returns or business accounts were sought for Mr C.

24. The Contractor acknowledged that Mrs C's accounts for the business that she ran with Mrs A were prepared in December of each year, and that this meant that there were no figures available for 2006/2007 at the time of their submission. She asked, however, whether Mrs C's accountant would be able to provide some interim figures. In addition to the above, the Contractor queried a number of payments that were made from Mrs C's account and asked that these be clarified. She stated that the application could not progress until full, clear, accounts were provided.

25. On 8 October 2007, the Agent emailed the Contractor to ask whether the Contractor was working from the same information that they were. They confirmed that they had accounts and tax calculations for both Mr and Mrs C. The Contractor replied on 10 October 2007 and noted that she now had all of the financial information that she required, but that certain information that she had requested in her previous email was still outstanding. This information was provided later the same day. The Agent also clarified that Mrs C's accountant had not prepared 'year to date' accounts for the business that Mrs C ran with Mrs A, as the previously supplied figures had been considered acceptable by their mortgage provider.

26. On 10 October 2007, the Contractor completed an appraisal of Mrs C's completed RHOG application. The appraisal detailed the financial information that had been provided by the Agent but noted that no figures were known for

2006/2007 for the business that Mrs C ran with Mrs A. A joint income of £23,321.00 was recorded for Mr and Mrs C for 2005/2006, however, the Contractor stated that, due to the lack of information for the partnership business, no joint income could be calculated for 2006/2007.

27. In her appraisal, the Contractor noted that the property that Mr and Mrs C were trying to purchase had not been offered for sale on the open market, and that, as such, it did not satisfy specific requirements of the Grant Provider. This comment referred to Section 29 of the Guidance, which states:

'To be eligible to receive grant to allow for the purchase of a site or existing property not requiring improvement on the open market, the Grant Provider should be satisfied that no other options for home ownership exist for the applicant. The Grant Provider should also be satisfied that there is no other interested party in the property. Generally, the property should have been for sale on the open market for at least six months. A valuation by the District Valuer or other independent valuer should be obtained.'

28. The Grant Provider told me that the above requirement had been revised several years prior to Mrs C's RHOG application, and that they are now content for properties to be available for sale on the open market for only three months.

29. On 19 October 2007, the Grant Provider sent a memo to the Agent, explaining their decision with regard to Mrs C's RHOG application. The application was not approved, based on the lack of sufficient proof of income and the fact that the property had not been available for sale on the open market. In summing up their decision, the Grant Provider acknowledged that an RHOG application had originally been submitted in June 2007, and then re-submitted in July 2007. They noted the difference in earnings being quoted on each occasion and commented 'it is difficult to understand how an applicant's income can increase from approx £13,000 when submitted in June to £22,890 when submitted in July'.

30. The Grant Provider confirmed their decision to decline Mrs C's application to the Agent on 25 October 2007. In their letter to the Agent, they explained that they continued to have concerns regarding Mr and Mrs C's ability to pay their mortgage. They noted that Mrs C's first application had only detailed one source of income, and that the second had detailed two. They expressed their concern that there were no figures available to demonstrate her second income

for the most recent financial year. Whilst they acknowledged that Mrs C's mortgage provider had been satisfied with the financial information that was available, they stressed that, where an RHOG applicant is self-employed, the Guidance requires audited accounts to be provided. Section 50 (ix) of the Guidance states:

'50 ...the applicant must supply:

(ix) Certification of income, endorsed by their employer. The certification form is included in the RHOG2/Application form, and must be completed in respect of the applicants' income, or if the applicant is self-employed a set of audited accounts must be provided.'

31. The Grant Provider concluded that, without full details of Mrs C's income, they could not make an informed decision as to her suitability as an RHOG applicant. They further noted that the property had not been on the open market, in line with their requirements.

32. The Agent telephoned Mrs C on 1 November 2007 to advise her that her RHOG application had been rejected by the Grant Provider. Mrs C subsequently complained to her local MSP (the MSP) about the length of time that she had had to wait, only to have her application rejected. She told me that she also met with the Agent on 5 November 2007 and was shown a copy of the Grant Provider's decision letter. She was surprised to learn that her earnings had been brought in to question as early as the first RHOG1 application stage in June 2007. Mrs C complained further to the MSP about the handling of her application.

33. Mrs C emailed the Agent on 7 November 2007 to record the points raised during the meeting of 5 November 2007, and to formalise her position with regard to the aspects of her application that led to its rejection. She considered that the Grant Provider had been led to believe, from an early stage, that she had failed to disclose part of her income. This, she felt, led to her application being delayed and ultimately turned down. Mrs C explained that, when her RHOG1 application form was being completed with staff at the Agent, upon reaching the section relating to personal income, she was asked to provide copies of recent payslips. Being self-employed, she was unable to do this. She said that the Agent advised her that they would complete her income details separately, and that for the time being she should complete the rest of the form and sign it. She did so, but was unaware that her income details were subsequently added to the application form incorrectly by the Agent's staff. Her

income from the business that she ran with Mrs A was omitted in error, but was included in the second RHOG1 application. Mrs C complained that the error had been the Agent's and that she was at no point made aware that there was a problem. Had she known, she would have been able to explain her income and rectify the mistake. Mrs C was also concerned that her earnings were considered to be low, due to the 2006/2007 accounts for her business partnership showing a loss, as a result of their being provided before the end of the financial year. She suspected that this had contributed to the Grant Provider's conclusion that she and her husband could not afford the mortgage that they had agreed.

34. Mrs C further complained that she had been advised by the Agent at the start of the RHOG application process that it 'would not be a problem' that the property had not been put on the open market for three months prior to purchase. Similarly, she said that she had been told that there would be no problem regarding the fact that the property was being purchased from a family member.

35. The Agent responded to Mrs C's email in a letter, dated 21 November 2007. They noted that, at the time the first RHOG1 application was sent to the Grant Provider, the Agent were in possession of Mr and Mrs C's income details. They explained that they had advised the Grant Provider, in the cover letter that accompanied the application form, that they did not have Mr and Mrs C's full income details. They noted, however, that these were forwarded with the updated form when the RHOG1 application was resubmitted.

36. The Agent noted that, by the time they received Mrs C's partnership business accounts in October 2007, the Grant Provider had already issued a letter, rejecting her RHOG application. The accounts were, therefore, never forwarded to the Grant Provider.

37. With regard to the fact that the property had not been available for sale on the open market for the required three months, the Agent noted that the Guidance stated 'properties which have not been on the open market should be an exception to the rule'. Furthermore, they said that a letter, reminding RHOG agents of this aspect of the Guidance, was sent by the Grant Provider on 8 June 2007. The Agent remained of the opinion that the fact that a property had not been available for three months on the open market, did not exclude it from being eligible for RHOG funding. The Agent went on to note that they had

processed a number of successful RHOG applications involving property sales between family members. As such, they were satisfied that their advice that this would not present a problem for Mr and Mrs C, had been reasonable. They considered there to be a strong case for the Grant Provider to review their decision with regard to Mr and Mrs C's RHOG application and advised that they had asked the Grant Provider to reconsider the case.

38. The Grant Provider's letter of 8 June 2007 stated:

'A number of applications have been submitted for the purchase of 'off the shelf' properties where the property has not been for sale on the open market. RHOG guidance advises that an 'off the shelf' property should have been on the open market for at least 6 months and Communities Scotland should be satisfied there is no other interest in the property. On a local level this timescale was relaxed some time ago to 3 months. We appreciate cases can arise where RHOG applicants have the opportunity to purchase properties that have not been on the open market. However, these should be the exception. It would be helpful, in these cases, if you could note the circumstances and contact us prior to RHOG1 approval being given.'

39. Mrs C responded to the Agent's letter on 26 November 2007. She stressed that she had provided all of the required financial information to the Agent prior to the first RHOG1 application. She also registered her concern that her application had been rejected by the Grant Provider, and that this was known by the Agent, before she was asked to provide further account information for her business partnership.

40. On 27 November 2007, the MSP wrote to the Grant Provider's Acting Chief Executive (the Chief Executive). The MSP considered it inappropriate of the Grant Provider to form the assumption that Mr and Mrs C would not be able to afford their mortgage repayments, given that their bank was obviously satisfied that they were able to do so. He acknowledged the fact that the property had not been on the open market for three months and that the sale was between family members, but understood that, whilst these circumstances were unusual, they were not uncommon and should not constitute sufficient grounds for rejecting Mr and Mrs C's RHOG application.

41. On 18 December 2007, the Chief Executive responded to the MSP's letter of 27 November 2007. He advised that the Grant Provider had reconsidered

Mr and Mrs C's RHOG application, but that they had again concluded that there was insufficient information available upon which they could reach a positive conclusion. The Chief Executive reiterated the importance of the Grant Provider having full financial information so that they can assess whether the applicant is maximising their personal contribution to the purchase of their property. He considered that the lack of detailed account information for Mr and Mrs C meant that the Grant Provider could not establish their true income, or how stable that income was. The Chief Executive acknowledged the length of time that it had taken for a decision to be made on Mr and Mrs C's application. He explained that the Grant Provider had 'repeatedly' asked for complete information from the Agent and that one of those requests led to different financial information, to that which was originally provided, being submitted.

42. The Chief Executive further explained that the purpose of the requirement for properties to have been available on the open market for three months was to ensure that the proposed price of the property is consistent with current market values. He advised the MSP, with the above in mind, that the Grant Provider would have expected the Agent to have filtered Mr and Mrs C's application out at an early stage.

43. The Agent wrote to Mrs C on 20 December 2007, having received a copy of the Chief Executive's letter of 18 December 2007. They advised that they had asked the Grant Provider to further reconsider Mrs C's application and noted that there were two preconditions that would require to be met: submission of detailed accounts for the previous two years; and confirmation that the property had been marketed for three months. The Agent stated that they remained of the view that the three month rule was not mandatory, noting that it had not been enforced before June 2007, but suggested that Mr and Mrs C comply with this requirement to ensure that their application proceeded.

44. Mrs C complained to the Ombudsman before completing her appeal of the decision to reject her RHOG application. She complained that she had provided all of the financial information asked of her, and that she was disappointed to be asked for a further year's accounts during the application process. She noted the cost in terms of time and money that she incurred when providing this information and the various property surveys and valuations. Mrs C considered it unfair that the Grant Provider should base their decision on affordability. She noted that her bank was satisfied that she was able to afford the mortgage and that incomplete financial information had been forwarded to

the Grant Provider by the Agent. She highlighted the fact that full financial information was subsequently forwarded, along with other information that was asked of her, however, she felt that an initial mistake by the Agent led to the Grant Provider questioning her integrity.

45. With regard to the three month rule and the fact that the property purchase was to be between family members, Mrs C stressed that she was specifically advised at the start of the application process that these would not be issues that would prevent her application being approved. She complained that these rules were prejudicial to members of the same family wishing to complete a property sale and that they lacked common sense. Furthermore, she highlighted the Agent's comments that previous property sales between family members had been approved. She felt that her application had not been treated fairly or on the same basis as other applications.

46. When investigating this complaint, I asked the Grant Provider what flexibility there was within the Guidance to allow local RHOG agents to overlook the three month rule. They explained that, in the Highlands, most properties are sold within three months, therefore, if a property remains available after three months on the market, then it can be assumed that demand for it is low, and a grant-assisted purchase would not interfere with the market. The Grant Provider said that they would be concerned if the three month rule was relaxed, as grants could potentially fuel house price inflation. The Grant Provider became aware that different RHOG agents were interpreting the Guidance in different ways, therefore, they sent all agents clarification of their position with regard to the three month rule in their letter of 8 June 2007.

47. I asked the Grant Provider to clarify their approach to 'closed sales' between family members, and whether the Guidance allowed for a purchase to take place between family members. They explained that closed sales are only considered in exceptional circumstances, generally where the relationship between two partners breaks down. RHOG funding can be used to assist one of the partners to buy the other partner's share in the property to avoid homelessness. The Grant Provider conceded, that where such purchases had occurred in the past, the three month rule was not enforced. They said that, had Mrs C provided adequate financial information and a full explanation as to why she required a closed sale, then this would have been considered.

48. With regard to the financial information that Mrs C provided, the Grant Provider highlighted that section 50 (ix) of the Guidance requires self-employed applicants to provide a full set of current, audited accounts. As these were not available for Mrs C at the time of her application, she was asked to provide an accurate assessment of her financial situation. This was provided in the form of bank statements for Mr and Mrs C, however, the income totals noted in the RHOG1 application form did not match the amounts detailed in the bank statements. The Grant Provider noted that the Agent were asked on a number of occasions to provide audited accounts for Mrs C, but that these were not provided.

49. I asked the Grant Provider whether Mr and Mrs C's RHOG1 application was completed in their presence. They were unable to confirm who was present at the time of the form being completed, however, noted that the submission was signed and dated by Mrs C. The Agent advised the Grant Provider that Mrs C completed most of the form herself, but asked the Agent to fill in the gaps in information. The Grant Provider noted that, by signing the application form, the applicant declares that all of the information contained in it is accurate.

(a) Conclusion

50. From the evidence that I have seen, it is apparent that the income amounts for Mr and Mrs C, detailed in the two RHOG1 application forms that they submitted, were different. It is also evident that the figures detailed in the second RHOG1 application did not match the proof of earnings submitted in support of the application. I acknowledge that Mr and Mrs C's bank were content to agree a mortgage based on their income levels and an ability to make repayments that were higher than the rent that they were used to paying. However, I consider it appropriate for the Grant Provider, as a potential provider of financial assistance, to satisfy themselves, independently, that RHOG applicants' finances are in order. I am satisfied that the decision reached by the Grant Provider in this regard, and the requests that they made for further clarification of the applicants' financial circumstances, were reasonable and in line with the Guidance.

51. I am also satisfied that, based on the information available to them, the three month rule was applied correctly by the Grant Provider.

52. Although I am satisfied with the Grant Provider's interpretation and use of the information that they were provided with, I have a number of concerns over the way that information was gathered from Mr and Mrs C.

53. The Guidance states clearly the various details that RHOG applicants are required to provide at the RHOG1 stage. When Mrs C first enquired about making an RHOG application, the Agent sent her a detailed list of the information that she was required to supply. The required financial information was included in this list, however, the RHOG1 application form was completed and submitted before the information was fully gathered. The Agent mentioned in their cover letter that they did not have full information at that stage. All RHOG applications have to be assessed for suitability in two general areas: suitability of the applicant; and suitability of the property. RHOG agents have the discretion to approve RHOG1 applications and are expected to filter out cases which do not satisfy the requirements of both areas. I was concerned to note that the Agent submitted Mr and Mrs C's RHOG1 application to the Grant Provider without first ensuring that all of the required information had been gathered in its entirety.

54. I am unable to determine precisely what information was completed by Mrs C, and what was completed by the Agent on the RHOG1 application forms. I understand, however, that some information was completed without Mrs C being present, after she had signed the application form. Whilst I accept that this was done with Mrs C's consent, I was concerned that she was not asked to review the fully completed application form prior to its submission. This led to an inaccurate application being submitted, resulting in confusion and, ultimately, to the rejection of Mr and Mrs C's RHOG application.

55. The inaccurate RHOG1 form, submitted to the Grant Provider in June 2007, prompted the Grant Provider to question the applicants' eligibility. Raising concerns about Mr and Mrs C's ability to afford the property that they intended to purchase, the Grant Provider asked for more detailed income information and confirmation of their agreed mortgage. I was concerned to note that a second RHOG1 application was submitted, on 20 July 2007, with assurances that Mr and Mrs C could afford the property, but before their new mortgage was agreed by their lender. Furthermore, the additional financial information that was provided was not in the requested format and did not match the amounts detailed on the application form.

56. Audited accounts were not readily available for Mrs C during 2007, as these would not normally be prepared until the end of the year. However, I find it reasonable that the Grant Provider should require a formal, accurate, record of any applicant's earnings. I consider it poor that interim audited accounts were not requested as an essential requirement from the start of the application process, and that these could, therefore, not be provided until the application had already been rejected.

57. I am satisfied that the Guidance recognises that the three month rule is not fair or practical under certain circumstances, and that property sales between family members are not entirely excluded from the RHOG scheme. However, that there should be exceptional reasons for waiving the three month rule and permitting a closed sale. The Agent considered Mrs C to be a strong candidate for RHOG funding and considered her circumstances justified waiving the three month rule. The facts of the relationship between Mrs C and Mrs A were detailed in the RHOG1 submission. However, I consider that, in line with the advice letter circulated by the Grant Provider on 8 June 2007, a special case should have been put forward, giving clear reasons for such a departure from the normal procedure. I found no evidence that these special circumstances and the argument for proceeding with a closed sale were communicated clearly to the Grant Provider by the Agent.

58. Generally, I consider that the Agent were satisfied that Mrs C was a strong candidate for RHOG funding. For this to be granted, they were required to ensure that all required information was provided for consideration by the Grant Provider. The application was rejected on two grounds; concerns over affordability and failure to adhere to the three month rule. I found that the Agent failed to ensure that the application was complete and in order before submission, that they failed to properly analyse the financial information that Mrs C provided, and that they failed to clearly state in their case for grant approval why Mrs C's circumstances merited a departure from normal procedures. I am satisfied that the Grant Provider used the information provided to them correctly. And whilst, ultimately, Mrs C's application may still have been rejected, I consider these failings on the Agent's part caused confusion and delay in the application process. I, therefore, uphold this complaint.

(a) Recommendations

59. The Ombudsman recommends that the Grant Provider:

- (i) ensure that their agents fully understand their responsibilities with regard to RHOG applications, in particular by ensuring that all applications meet the required criteria and are fully completed prior to submission;
- (ii) produce clear guidelines for their agents on presenting a case for consideration of applications with special circumstances; and
- (iii) requires all RHOG applicants to have read and agreed their complete application before signing.

(b) Conclusion

60. With discretion to assess the suitability of applications and clear guidelines as to the information that has to be provided, I consider that the Agent should not have submitted Mrs C's application until all of the required information was provided. The Grant Provider contacted the Agent directly, and via the Contractor, on a number of occasions throughout the application process, with concerns regarding the financial information that was provided in support of Mrs C's application. Whilst I am satisfied that the Agent communicated with Mrs C to request further information, I consider that the provision of full, audited accounts for Mrs C's businesses was integral to the success of her application. I was concerned that this was not explained clearly by the Grant Provider when communicating with the Agent, or by the Agent when communicating with Mrs C. Ultimately, Mrs C was able to provide interim audited accounts, but a lack of explanation of their importance meant that these were not obtained sufficiently early in the application process for them to be considered.

61. As I explained in paragraph 57 of this report, I was concerned by the nature of the Agent's communication with the Grant Provider, in that they did not put forward a special case for the three month rule being waived. I consider this to have directly impacted on Mrs C's chances of securing RHOG funding.

62. Similarly, the Agent were able to satisfy themselves that Mrs C's application was appropriate for approval. They failed, however, to explain that the discrepancy in income amounts between the two RHOG1 applications was the result of a mistake on the first form, rather than a change in Mrs C's circumstances. I consider this specific point to have caused a good deal of the confusion surrounding the application.

63. In terms of frequency of contact, I found the Agent's communication with Mrs C to be adequate. I was concerned, however, that she was not informed immediately that the Grant Provider had significant concerns over her ability to

afford the property purchase or that they had rejected her application in October 2007.

64. The evidence that I have seen indicates that the Agent were satisfied with the details of Mrs C's application but that the Grant Provider were not. I consider that the Agent could have done more to explain why they considered her to be a strong candidate for RHOG funding and to clarify the reasons for a closed sale. I also consider that they could have communicated more clearly with Mrs C regarding the financial details that she was required to provide. With this in mind, I uphold this complaint.

(b) Recommendations

65. The Ombudsman recommends that the Grant Provider review Mrs C's case to identify any areas where communication between themselves and the Agent could have been improved.

General recommendation

66. I understand that, since her complaint to the Ombudsman, Mrs C has been able to purchase Mrs A's property by other means. However, the Ombudsman recommends that the Grant Provider formally apologise to Mrs C for the confusion and delay surrounding her RHOG application.

67. The Scottish Government Housing and Regeneration Directorate have accepted the recommendations and will act upon them accordingly. The Ombudsman asks that the Scottish Government Housing and Regeneration Directorate notify him when the recommendations have been implemented.

Explanation of abbreviations used

Mrs C	The complainant
Mr C	Mrs C's husband
Mrs A	Mrs C's sister
The Agent	Agents used by the Grant Provider to process Rural Home Ownership Grant applications
RHOG	Rural Home Ownership Grant
The Grant Provider	Communities Scotland (now the Scottish Government's Housing and Regeneration Directorate)
RHOG1	Stage one of the RHOG application process
RHOG2	Stage two of the RHOG application process
The Guidance	The Grant Provider's internal procedure note on RHOG procedures
The Contractor	An independent contractor used by the Grant Provider to screen The Agent's RHOG applications prior to submission
The MSP	Mr and Mrs C's MSP
The Chief Executive	Acting Chief Executive of the Grant Provider

List of legislation and policies considered

Communities Scotland internal procedure note for all grant providers on Rural Home Ownership Grant procedures

Communities Scotland advice leaflet – Rural Home Ownership Grants