

SPSO decision report

Case: 201204866, Perth and Kinross Council
Sector: local government
Subject: right to buy
Outcome: upheld, recommendations

Summary

Mr C had lived in his parents' council house for many years with his wife (Mrs C), but did not become the tenant until after his father died in February 2007. This was after the modernised right to buy a council house was introduced in the Housing (Scotland) Act 2001. This reduced the maximum discount that could be given (to people who became tenants after September 2002) to 35 percent or £15,000, whichever was less. When Mr C took over the tenancy he asked a council officer if he could apply to buy the house. She wrongly told him that as a new tenant with a modified right to buy, he would have to wait five years. Four years later, in 2011, Mr C wrote to a senior housing officer asking again about this. In replying, the senior officer repeated the first officer's error that Mr C had to wait five years before applying. Seven months after that, Mr C discussed the matter with a housing manager, but they did not correct the previous misinformation. The council then began a consultation exercise on designating the whole of the council's area as having pressured area status (removing a tenant's general right to buy under the modernised scheme) and this came into place on 1 February 2012. Under these circumstances, should they wish to sell a house, the council have to apply to Scottish Ministers for consent for a voluntary sale.

Mr C then found out that he could have applied to buy his home as soon as he became a tenant. He formally complained to the council that he had been given incorrect information three times, and that the general right to buy had since been removed. They upheld his complaint; and eventually agreed with Mr C that he would allow access to have his home valued, and that they would be prepared to make the case for consent to sell to him at the £15,000 maximum discount with an allowance for rent paid from March 2011. Mr C, however, thought that the remedy for his complaint did not go far enough and that the allowance for rent should extend back to when he became the tenant, and brought the complaint to us. We upheld his complaint, and our recommendation reflects Mr C's concerns about the redress he had been offered.

Recommendations

We recommended that the council:

- after first obtaining Mr C's agreement and a supporting statement from him, present a case to Scottish Ministers for consent for a voluntary sale based on the estimated 26 February 2007 market value, with discount of £15,000 and an allowance for rent paid to date of completion of sale; and
- in the event that the Scottish Ministers do not consent to any sale of the property as outlined in recommendation one above, that the council make an ex-gratia payment to Mr and Mrs C to reflect the terms of the loss they have incurred financially, this being the rent paid from 26 February 2007 to date.