

SPSO decision report

Case: 201305833, Aberdeenshire Council
Sector: local government
Subject: rent and/or service charges
Outcome: some upheld, recommendations

Summary

Mr and Mrs C complained on behalf of their son (Mr A) about recharges made for alterations and damage to a property when the tenancy ended.

Mr and Mrs C had jointly signed the original tenancy agreement with the council in 1989. In 2008 they took on the care of a severely disabled foster child on behalf of the council, but had to move to a suitably adapted property. The tenancy agreement of the property they had lived in with Mr A was assigned from Mr and Mrs C to the joint names of Mr C and Mr A; the tenancy agreement was assigned again in 2009 solely to Mr A. The council deemed the property had been abandoned by Mr A in 2013 and levied recharges for various items, including the reinstatement of kitchen and bathroom fittings which had been put in by Mr and Mrs C prior to 2008.

The council said that as the tenancy had been assigned to Mr A, he automatically became responsible for any damage caused. The tenancy agreement signed in 1989 stated that any damage caused by fault or neglect of tenants had to be either put right or the council would charge for doing so. In relation to alterations, the tenancy agreement stated that these had to have prior approval from the council, but did not make it clear what the consequences would be of not getting approval. The current tenancy agreement in use by the council states that unauthorised alterations should be removed, or the council would charge for doing so.

Our investigation found that the tenancy agreement signed in 1989 did not make it clear that the council would regard unauthorised alterations as damage liable to recharge. We also found that opportunities had been missed in 2008 and 2009 to make Mr and Mrs C aware that the alterations they had made would be rechargeable; and to give Mr A the opportunity to say that he accepted the property, with the alterations, in 2009.

Recommendations

We recommended that the council:

- review its assignation documentation to ensure that, for the future, it is made clear to tenants that all of the conditions of the original tenancy agreement still refer and, if necessary, is updated to the current version;
- reconsider the recharges made for replacing the kitchen, bathroom and wood panelling;
- review its procedures for assignations of tenancy agreements to ensure that all parties are made aware of, and/or reminded about, the requirement to remove improvements made and/or restore properties to a lettable standard; and
- issue a written apology to Mr and Mrs C for the failings identified during this investigation.