

SPSO decision report

Case: 201608467, North Ayrshire Council
Sector: local government
Subject: council tax
Decision: some upheld, recommendations

Summary

Mr C bought a second property with a view to renovating it and eventually moving into it. It took Mr C some time to bring the property up to habitable standards, and he moved into the property two and half years after buying it. When he moved in, he received a notification from the council about a council tax levy that was imposed on him from seven months earlier. Mr C complained to the council that they failed to inform him of this levy in writing at that time. He also believed the legislation from the Scottish Government gave local authorities flexibility and discretion when imposing the levy. We asked the council if the policy to impose a council tax levy on unoccupied properties was a blanket decision and whether they considered that they were not using their discretion when they could have been. The council confirmed that it was a blanket decision as they wanted to treat all home owners equally, and therefore it was not unreasonable to not consider Mr C's individual circumstances.

Following our investigation, the council accepted that they failed to take the Scottish Government's 2015 guidance into account when they originally drafted their policy. However, we also found that the council were correct in how they interpreted the relevant regulations and that they had the discretion to impose the levy on all cases and not take into account individual circumstances. Our investigation found that the Scottish Government's 2015 guidance on the regulations was not accurate and conflicted with the regulations. As a result, the Scottish Government has agreed to amend the guidance. We did not uphold this complaint, however we recommended that the council review their policy for council tax levies for unoccupied dwellings.

The council explained there was an administrative error when processing Mr C's account which explained why he did not receive notification of the council tax levy in writing. We upheld this aspect of Mr C's complaint.

Recommendations

What we asked the organisation to do in this case:

- The council should review Mr C's council tax account and reconsider his individual circumstances.

What we said should change to put things right in future:

- The council's policy for council tax levies for unoccupied dwellings should include a provision to exercise discretion when considering whether to apply the levy on a case by case basis, in line with Scottish Government guidance on the regulations.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.