SPSO decision report

SPSO Scottish Public Services Ombudsman

Case:	**201700455, Falkirk Council**
Sector:	local government
Subject:	applications, allocations, transfers & exchanges
Decision:	some upheld, recommendations

Summary

Mr C's daughter (Miss A) accepted a tenancy from the council. She recalled having been advised that a garden area was for her sole use. When she approached her neighbours over their use of the garden area they told her that they had access and use rights to the area. Miss A sought clarification from the council about this. The council confirmed that the neighbours had some rights to access and use the garden area. Mr C complained to the council that this was contrary to what his daughter had been told when she was offered the tenancy. He further complained that the time the council had taken to clarify matters had been unreasonable. The council told Mr C that their recollection was that Miss A had been aware that there was no certainty over the use of the garden area when she accepted the tenancy and that they had apologised for the unreasonable delay in providing clarification. Mr C was unhappy with the council's response and he raised his complaints with us.

We found that there was no clear, objective evidence of what Miss A was told before she accepted the tenancy and, consequently, we did not uphold the first aspect of Mr C's complaint. However, we found that the time taken to provide clarification had been unreasonable, and we also found no evidence that an apology had been given to Miss A. Therefore, we upheld this aspect of Mr C's complaint.

Recommendations

What we asked the organisation to do in this case:

- Apologise to Mr C and Miss A for the delay in clarifying rights in relation to garden areas at Miss A's tenancy. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spso.org.uk/leaflets-and-guidance.

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.