

SPSO decision report

Case: 201702843, Renfrewshire Council
Sector: local government
Subject: policy / administration
Decision: some upheld, recommendations

Summary

Mrs C raised four complaints relating to a charging order (a charging order means that a property could be used to repay a debt) taken over her mother's home by the council.

Mrs C complained that the council failed to advise her that her mother's care would be financed by a deferred payment, with a charging order being taken over the property. Mrs C also raised concern that the council failed to reasonably advise her that the charging order would rank ahead of other chargers. We found that the council wrote to Mrs C advising her that her mother was required to pay for a shortfall in funding, and that this could be covered by a deferred payment with a charging order being taken over the property. We found that the council also wrote to Mrs C to advise her that a charging order was being taken and that the property could not be sold until the council's debt, which was covered by the charging order, was repaid. We also found that the council advised that Mrs C should take independent legal advice on these issues. We did not uphold these two aspects of the complaint.

Mrs C also complained that the council failed to provide her with a reasonable explanation regarding the charges incurred by the council which would be repaid on the sale of the property. Whilst we found that the council had provided information on some issues, we found that they did not explain specifically what Mrs C's mother would be charged for her weekly care. The council also charged Mrs C's mother to discharge the charging order and did not advise her up front that this was a cost she would be required to meet. We upheld this aspect of the complaint.

Recommendations

What we asked the organisation to do in this case:

- Issue an apology to Mrs C for failing to provide her with reasonable information regarding the charges incurred by the council on behalf of her mother that would be repaid on the sale of the property.
- Return to Mrs C the sum of money she paid to discharge the charging order.

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

- Ensure that documentation issued to a client or their representative at the outset sets out clearly the costs that the client is responsible for paying either up front or as a deferred payment under a charging order.
- Ensure that the client is notified in advance if they are required to pay the legal fee for the discharge of a charging order.
- Consider whether or not it would be possible to more promptly and proactively alert clients to accruing debt under a charging order.

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.