

Scottish Parliament Region: Highlands and Islands

Case 200500441: The Highland Council

Introduction

1. On 10 May 2005 the Ombudsman received a complaint from a member of the public (Ms C) that the Highland Council (the Council) had failed to carry out repairs and to properly maintain her home, and also that the Council had failed to deal effectively with anti-social neighbours.

2. The complaints from Ms C which I have investigated concerned the Council's failure to:

- (a) deal with a beetle infestation within a reasonable timescale;
- (b) properly maintain Ms C's property;
- (c) deal with Ms C's anti-social neighbours and to compensate her for damage caused to her car by these neighbours.

Ms C wished the Council to consider reimbursing her for the damage to her car caused by her neighbours and also the costs of replacing her bathroom floor. In addition, she wanted the Council to move her anti-social neighbours to another area.

3. Following the investigation of all aspects of this complaint I came to the following conclusions:

- (a) upheld, see paragraphs 5 to 9;
- (b) upheld, see paragraphs 10 to 19;
- (c) not upheld, see paragraphs 20 to 32.

Investigation and findings of fact

4. Ms C raised her complaint in line with the Council's formal complaints procedure, the final stage of which is an appeal to the Chief Executive. The Chief Executive provided his formal response on 4 May 2005. The investigation of this complaint involved obtaining and reading all the relevant documentation, reviewing procedures and the tenancy agreement. I have made a written enquiry of the Council. I have set out, for each of the three heads of Ms C's complaint, my findings of fact and conclusions. Ms C and the Council have been given the opportunity to comment on a draft of this report.

(a) The Council's failure to deal with a beetle infestation within a reasonable timescale

5. In January 2000 Ms C took a beetle she had found in her kitchen to the Council's Environmental Health Department (the Department). After specialist advice it was established that the subject was an Australian Spider Beetle. Environmental Health Officers visited Ms C's home and sprayed her kitchen to kill the beetles. Ms C stated that this action made no difference to the infestation. The Council are unable to find any details of any further contact with Ms C in respect of the beetle infestation until 7 January 2004 where she contacted the Council to report mice in her kitchen. She was visited by a Housing Maintenance Officer and pest control contractor the same day and the mice infestation was successfully treated.

6. Ms C stated that she mentioned to the pest control contractor that the beetle infestation had returned and the contractor advised her that the infestation was likely to continue until a problem with birds' nests in her roof had been addressed. I have been advised that the Housing Maintenance Officer has no recollection of this issue being reported to him when attending in respect of the mice infestation. Ms C stated that she had been advised that the beetle infestation would be dealt with and waited for the Council to respond. However, the Council has no record of any further contact in respect of the beetle infestation until 27 September 2004. At this stage Ms C contacted the Council again to request that they remove the birds' nests and deal with the beetle infestation.

7. The Council's stated response times for complaints such as these is one month. The contractor for the Council was, at this stage, unable to locate the birds'

nests. On 7 March 2005 a new high priority works order was raised for housing maintenance joiners to visit, with another pest control contractor, to identify where the birds were gaining access. No obvious places of access were located. On 6 April 2005 another company attended with a miniature camera. This identified a nest on the rear gable. A roofing contractor enabled access to the location, the nest was then removed and the area sprayed with insecticide. Shortly afterwards, a maintenance supervisor spoke to Ms C and states that Ms C advised that there was no further problem with beetles.

8. The Council have advised that the records of the Department state that they were contacted by the complainant in November 2004. They explained at this time that they would treat the house once the bird nests had been removed. The Department remained in contact by telephone with Ms C for some time until the nests were removed. In April 2005 Ms C confirmed to them that the nests had been removed. She declined to have the house treated at this time as she was having a new kitchen fitted by the Council. It was arranged that she would contact the Department when this work had been completed to allow them to carry out the treatment. The kitchen was fitted on 22 April 2005 with the new flooring being completed a few weeks later. To date, Ms C has not requested that the Council carry out further treatment on her kitchen. She believed that this was not necessary at present as there has been no recurrence of the infestation, although she has come across a few dead beetles. The nests causing the infestation have now been removed. Ms C advised that she will contact the Department should the infestation reoccur in the future.

9. It is clear that there appears to have been a breakdown of communication on both sides in respect of this issue, in that the Council failed to respond fully and appropriately to Ms C's requests to remove the beetle infestation. For this reason I uphold this aspect of the complaint.

(b) The Council's failure to properly maintain Ms C's property

10. Ms C complained about two main issues in respect of maintenance of her home: her rotten bathroom floor and the leaking roof which caused damage to her hall wall.

Rotten Bathroom Floor

11. The Council advised that their records indicate that in January 2000 Ms C's bathroom was flooded. The Council carried out no work at this stage as they held Ms C responsible for any damage. Problems with the toilet were first reported on 3 February 2001, the toilet was fixed and plywood fitted to the floor on 12 and 13 April 2001. The toilet was repaired again on 14 November 2001 and in February 2002.

12. On 27 January 2004 the complainant reported a leaking pipe in her bathroom. A Housing Officer (Officer 1) visited shortly afterwards to establish the extent of the works required. At this visit, Ms C advised Officer 1 that she intended to replace the bathroom suite herself. Officer 1 agreed that the Council would remove the old suite to assist in its replacement. Ms C stated that she raised her concerns regarding the rotten floor at this time. The Council, however, have advised that they have no record of this problem being discussed at this meeting.

13. The Council believed that they carried out all works requested in respect of Ms C's bathroom. They state that they had no specific requests for repairs to a rotten bathroom floor, although they have on two occasions fitted plywood panels to the floor when repairing the leaking toilet. Ms C believed the Council were aware of this problem and failed to take appropriate action to correct it. I am, however, unable to find evidence to support Ms C's claims in this regard. In the absence of any evidence, I do not uphold this aspect of the complaint.

Leaking roof and repairs to hall wall

14. On 13 December 2004 Ms C reported that there was a leak to her roof. A roofing contractor was employed by the Council and they carried out repairs on 16 December 2004.

15. On 28 February 2005 Ms C reported water damage to plasterboard in her hall resulting from the roof leak. This report was not actioned and Ms C had to contact the Council again on 9 May 2005. The property was inspected on 31 May 2005 and a works order issued on 2 June 2005 to replace the damaged plasterboard and apply damp prevention treatment to the porch ceilings and walls. The plasterwork was completed on the 28 June 2005 and the painting work was passed on to a sub-contractor.

16. Following the enquiry from this office, the Council obtained a report from the contractors. They stated that they attended initially on 6 or 7 July 2005 to carry out preparatory work. The firm then had their annual holidays between 8 and 25 July 2005. The contractors advised the Council that they were unable to gain access to complete the works. The Council have since contacted Ms C to establish whether the works have been completed. She advised that the contractors only completed half of the painting work. The Council advised that they would arrange for the walls to be repainted, but Ms C advised that she has now completed the works herself.

17. The Council's repairs policy states that, where inspection is required, logged faults should be inspected by their Housing Maintenance Officers within 10 working days. Due to issues concerning staffing levels and workloads, the Housing Officers were not meeting these deadlines.

18. In respect of the failure of the Council to inspect and complete this work within an appropriate timescale, I uphold this aspect of the complaint.

19. I have been advised by the Council that workloads have recently been re-organised and timescales are now being met.

(c) Anti Social Neighbours

20. Ms C complained that her near neighbours (Mrs D, her sons Mr E, Mr F and daughter Miss D) have subjected her and her family to anti-social behaviour for some time. In addition, the children have vandalised her car causing significant damage.

21. The Council advised that reports concerning the neighbours' behaviour were first reported to the Inverness Housing Liaison Group (led by the Council's Housing Service and including representatives from Social Work, the Police and Housing Associations) in October 2003. Mr E's behaviour was monitored and investigated over the next 10 months by the liaison group and Community Warden. This resulted in the Council obtaining an interim Anti-Social Behaviour Order (ASBO) on 22 December 2004, which was converted to a full ASBO on 16 February 2005.

22. During the investigation into Mr E, a number of tenants also provided information on the behaviour of his sister, Miss D, and another girl, Miss G. It was stated that they had also been involved in anti-social behaviour. The Chairman of the local Community Council asked the Community Warden to speak to Ms C about an incident involving her daughter. He did this on 29 September 2004 and again on 28 October 2004.

23. As both the girls involved in the incident with Ms C's daughter were under 16 years old, the Housing Service passed all information regarding their behaviour to the Council's Social Work Service and the Northern Constabulary. Action has been taken to address Miss D and Miss G's behaviour through the Children's Hearing System. In addition there is a local Youth Offenders Forum led by the Police which involves representatives from various agencies including the Children's Reporter and Social Work Departments.

24. There had been one report of anti-social behaviour by the children in recent months. This was by Ms C and related to rude and offensive gestures which Ms C stated were directed at her. Whilst the girls are still being dealt with under the Young Offenders Forum, the determination of any action against them lies with the Children's Reporter.

25. Ms C has also complained that Mrs D does not look after her garden and that it is always unsightly. These matters are normally dealt with by the Housing Management Officers. In this case, the garden was tidied up on 6 July 2005 by the Council. The tenant was billed for these works. Any further problems with the garden area should be reported to Housing Services.

26. The Council have not considered re-housing Mrs D and her family as this would only be seen as a last option, and would only ever be done in consultation with and the agreement of all relevant Council services and external agencies.

Car parking and damage to car

27. Ms C complained to the Council concerning her car parking arrangements for the first time in November 2000. She wrote to the Council in January and June of 2002 to advise that her car had been damaged in the car park. Apart from one break in, Ms C had not reported any other issues with her car parking since her

tenancy began.

28. The Council advised that Mrs C was allocated a garage when she first complained about the damage, but the garage was given up shortly afterwards. Ms C then asked whether she could erect a garage in the car park. She believed other residents in Inverness had built garages in Council car parks. The Council advised that they would not allow such a construction as this is a Council owned car park. They also confirmed that no other car parks owned by Housing Services have had garages built on them in the Inverness area. The areas where Ms C believed that such constructions had been allowed are actually specially designated garage sites where, if they so wish, tenants can apply for a site on which to build their own garage. It may be possible for Ms C to request to rent such a site, in which case she should apply to the Area Housing Office. The success of any application would, however, depend on whether there is currently a vacant site.

29. In June 2005 Ms C was offered, and accepted, the tenancy of a further nearby garage. A Housing Officer offered to meet her to ensure that she could get her large car into the garage, Ms C declined this offer. The Council advised that Ms C confirmed that her car would fit into the garage. Ms C, however, stated that she advised them that she would change to a smaller car.

30. Ms C also stated that the children of Mrs D were responsible for the damage to her car. In addition she stated that the police caught them and charged them, but as they were under 16 she received no compensation. She does not see why she should have to claim on her own insurance.

31. The Council pointed out a number of times that it has no responsibility for damage sustained to cars parked in the communal parking area. Any damage incurred should be reported to the police and any claims to repair the damage should be taken up with an individual's insurer.

32. The Council have allocated a garage to Ms C on two occasions, the most recent garage is within a reasonable distance of her home and she has confirmed that her car can fit into the garage. I do not, therefore, uphold this aspect of the complaint.

The Council's proposed actions

33. As a result of the complaints, the Council reviewed the background to this case and suggested the following:

- a) the Council will provide an apology to Ms C in respect of the delay in dealing with the beetle infestation, removal of the birds nest and repair to the hall wall;
- b) agreed timescales for repairs will be reviewed and monitored closely to ensure better delivery of service;
- c) in respect of the delays to the repairs, the Council have proposed a one off, ex-gratia payment of £300;
- d) the Council will request the new Community Warden make contact with Ms C to attempt to resolve any outstanding issues concerning her neighbours on an on-going basis.

I consider that the above actions proposed by the Council are appropriate redress in response to addressing Ms C's outstanding concerns. In light of this conclusion the Ombudsman has no further recommendations to make.

27 June 2006

Explanation of abbreviations used

Ms C	The complainant
Mrs D	A neighbour of Ms C
Mr E	Mrs D's son
Mr F	Mrs D's son
Miss D	Mrs D's daughter
Miss G	Miss D's friend
The Council	The Highland Council
The Department	Environmental Health Department
Officer 1	Housing Officer 1