

**Case 200501223: North Lanarkshire Council**

**Summary of Investigation**

**Category**

Local government: Housing, abandonment and evictions

**Overview**

This complaint concerns a council property which Mr D moved out of, without removing his possessions. The property was subsequently burgled. The complainant believed the Council was partially responsible for the loss of Mr D's possessions.

**Specific complaints and conclusions**

- (a) The Council refused on three occasions to allow Mr D timely access to his home to remove his possessions (*not upheld*)
- (b) The Council failed to advise Mr D that a burglary had taken place (*upheld but subsequently remedied*)
- (c) The Council denied any responsibility for the theft of Mr D's belongings (*not upheld*)

**Redress and recommendation**

The Ombudsman has no recommendation to make.

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**Introduction**

1. On 8 August 2005 the Ombudsman received a complaint from a Citizens Advice Bureau Officer (referred to in this Report as Ms C) on behalf of her client (Mr D).

2. Mr D moved out of his council house on 11 January 2005 and he remained the tenant. On 14 January 2005, Mr D's house was burgled and many of his possessions were stolen and never recovered. Mr D was not occupying the house at this time. Ms C complained to North Lanarkshire Council (the Council) about the

material and financial loss suffered by Mr D resulting from the burglary. She also complained that, had the Council given Mr D timely access to his council house to remove his property when he first requested this, his losses through the burglary would not have occurred.

3. The complaints from Ms C that I have investigated are that:
  - (a) the Council refused on three occasions to allow Mr D timely access to his home to remove his possessions;
  - (b) the Council failed to advise Mr D that a burglary had taken place;
  - (c) the Council denied any responsibility for the theft of Mr D's belongings.

### **Investigation**

4. In writing this report I had access to the documents provided by Ms C, Mr D and the Council. I also accessed documents that I had specifically requested from the Council. These included:

- (a) Council Housing Office Reception Records for the dates Mr D said he had visited the Housing Office to request his house keys to allow him access to his home to remove his property;
- (b) written statement from a Local Contact Point Housing Officer (Officer 1);
- (c) details regarding how the Council secured Mr D's house during his enforced move to his mother's house.

5. I have not included in this report every detail investigated, but I am satisfied that no matter of significance has been overlooked. Both Mr D and the Council have been given the opportunity to comment on a draft of this report.

6. Mr D lived in the Council house up to 11 January 2005, when he moved out. Youths were forcing their way into his property and as a result, Mr D presented himself as homeless at his local First Stop Shop on 11 January 2005. Mr D asked the Council to secure his house and to place in storage the property he had left. A homeless application was taken from Mr D in terms of the Housing (Scotland) Act 1987 and Mr D was offered temporary accommodation, however, he elected to stay with his mother. The Council took the house keys from Mr D on 11 January 2005 and the Council's contractor subsequently secured the property on the same day. The property was alarmed and protected with metal window shutters and a

metal door shutter. The alarm was linked directly to the contractor's central control room. The Council did not place Mr D's property into storage.

7. Mr D told me that on 12 January 2005 he visited the Housing Office and unsuccessfully requested the keys to enable him to remove his property from his house. He told me he made this request to either Officer 1 or another Local Contact Point Housing Officer (Officer 2).

8. Mr D told me that he made two further visits to the Housing Office on 14 and 17 January 2005 to request the keys. Again these requests, made to either Officer 1 or Officer 2 were refused. On each of these three occasions, Mr D says that he was dissuaded from removing his property from his house because he was told that if he removed his goods, he would be classed as deliberately making himself homeless.

9. I have reviewed the Housing Office Reception Records for 12, 14 and 17 January 2005. Several entries do not show name and address details aligned to visitor enquiries. There is no record that Mr D visited the Housing Office, however, Officer 1 only worked on 14 January 2005 and stated she has no memory or record of speaking to Mr D. Officer 2 is no longer employed by the Council.

10. On 20 January 2005 Mr D met with the Council's contractor who secured his house and he was told that his home had been burgled on 14 January 2005. The Council had not informed Mr D about the burglary. The Council then placed Mr D's remaining property into storage and subsequently re-housed him.

11. Mr D asked the Council to reimburse him for the stolen property. He said that if the Council had allowed him to remove his property on 12 January 2005, he would not have lost property in the burglary of 14 January 2005.

12. In response, the Council's Liability Claims Department stated that the Council are not legally liable for independent third party acts of theft. Mr D then took his complaint to Ms C, who pursued his complaint with the Council and subsequently, with the Ombudsman.

## Conclusions

13. Mr D has suffered upset and financial loss as result of the burglary. Mr D believes that, if he had been given his keys to remove his property when he first made this request at the Housing Office on 12 January 2005, his losses would not have occurred. In considering the available evidence I have come to the following conclusions in respect of the three aspects of the complaint:

(a) Mr D claims to have visited the Housing Office on three occasions, but the Housing Office do not record the names of all visitors. Further, one of the officers, Officer 1, has no recollection or record of speaking to Mr D on the day on which she worked (14 January 2005). It is therefore, not possible for me to verify that Mr D did visit the Housing Office on the relevant dates or what may have been said at the Housing Office. I do not uphold this aspect of Mr D's complaint.

(b) There is evidence that the Council failed to notify Mr D about the burglary at his home. After Ms C came to this office, she received a letter from the Council, dated 17 October 2005, apologising for this failure. I uphold this aspect of the complaint. However, in light of the apology already given, the Ombudsman has no further recommendations to make.

(c) I am satisfied that the Council took appropriate steps to secure Mr D's property. In this respect they are not responsible for the theft of the contents of the house. I, therefore, do not uphold this aspect of the complaint.

## Summary

### Specific complaints and conclusions

(a) The Council refused on three occasions to allow Mr D timely access to his home to remove his possessions (*not upheld*)

(b) The Council failed to advise Mr D that a burglary had taken place (*upheld but subsequently remedied*)

(c) The Council denied any responsibility for the theft of Mr D's belongings (*not upheld*)

### Redress and recommendation

The Ombudsman has no recommendation to make.

25 July 2006

**Explanation of abbreviations used**

Ms C	The Complainant
Mr D	The Client
The Council	North Lanarkshire Council
Officer 1	Local Contact Point Housing Officer
Officer 2	Local Contact Point Housing Officer