

Case 200502458: The City of Edinburgh Council

Summary of Investigation

Category

Local Government: Housing

Overview

The complainant (Mr C) raised a complaint that his client (Ms D) had accepted the offer of a Council house based on inaccurate information provided by the Council in respect of the central heating system. The Council had advised that the house was fitted with gas central heating when in actual fact only electric storage heaters were fitted. These storage heaters did not have the appropriate meter installed to allow for use of the cheap overnight electricity tariff. As such, Ms D's electricity costs were significantly higher than they would otherwise have been. Mr C pursued the complaint through the Council's formal complaints procedure and, as he remained dissatisfied with their response, referred the matter to the Ombudsman on 5 December 2005.

Specific complaints and conclusions

The complaints which have been investigated are about:

- (a) provision of inaccurate information when making an offer of housing (*upheld*);
- (b) breaking of tenancy agreement by failing to provide appropriate affordable heating (*partially upheld*); and
- (c) failure to fit additional meter to allow for cheap night time electricity (*upheld*).

Redress and recommendation

The Ombudsman recommends that the Council apologise for the delay in resolving the complaint. The Council has agreed to pay compensation for the additional cost of heating resulting from the lack of a meter for cheap overnight electricity. The Ombudsman commends the Council for agreeing to make the offer prior to the production of our report.

Main Investigation Report

Introduction

1. On 5 December 2005 the Scottish Public Services Ombudsman Office received a complaint from the complainant (Mr C) about his client (Ms D's) problems with the City of Edinburgh Council (the Council). Mr C alleged that the Council failed to provide an adequate and affordable heating system to Ms D when she moved into her new home. The property included electric storage heaters but lacked the second meter required for economical overnight charging of the system. Because the house lacked this second meter, Ms D's electricity bills were significantly higher than they would otherwise have been.

2. Mr C advised that Ms D decided to move into the house based on information received from the Council concerning the specification of the house. He further said that the Council has a responsibility to provide central heating and that the storage heaters fitted to the property could not be considered as central heating, additionally this type of heating was unaffordable to Ms D. Finally, Mr C stated that Ms D believed that the Council should have fitted an extra meter to allow for the use of cheap night electricity.

3. The complaints from Mr C which I have investigated are that the Council:

- (a) provided inaccurate information concerning the heating system when offering the house to Ms D;
- (b) have broken the tenancy agreement by failing to provide appropriate affordable heating; and
- (c) failed to fit an additional meter to allow for the use of cheaper night time electricity.

Investigation

4. I examined the correspondence forwarded by the aggrieved's representative, reviewed relevant policies and made enquiries of the Council both in writing and by telephone. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Since this complaint was received in our office, Mr C has been replaced as Ms D's representative by Ms E. Both Ms E and the Council have been given the opportunity to comment on a draft of this report.

(a) The Council provided inaccurate information concerning the heating system when offering the house to Ms D

5. Council properties at the time of the complaint were advertised fortnightly in a newspaper. Applicants who are on the Edinburgh Common Housing Register, Edindex, are invited to apply for up to 3 properties of interest. The allocation of houses, where there is more than one expression of interest, is based on a priority system. Ms D had a silver priority listing as her existing home was in an area due for redevelopment. The property she bid for was advertised in the paper as a '2 bedroom, 2nd floor flat ... with gas central heating, fitted kitchen and bathroom'.

6. The Council advised that the property was incorrectly listed as having gas central heating. A works order was raised in April 2004 to have gas central heating fitted. However, these works were never carried out.

7. Ms D bid for the property and an offer was made to her on 19 May 2004. Following completion of repairs, she visited the property on 30 June 2004. There is no record of what was said to Ms D regarding the central heating at her visit, nor is there any record of information given to her concerning the installation of gas central heating in the future. Ms D did, however, have the opportunity to examine the central heating system during her visit. Ms D accepted the property after viewing it and the tenancy started on 19 July 2004. In December 2005 a gas central heating system was installed as part of a programme for central heating replacement in her area.

(a) Conclusion

8. Although Ms D did have the opportunity to inspect the premises, no details of any comments made by either the housing officer or Ms D have been recorded by the Council. The Council clearly advertised the property incorrectly as one with gas central heating. As such, I uphold this aspect of the complaint. The Ombudsman suggests that the Council may wish to consider how its officers can most effectively record comments and issues when showing potential tenants around their properties.

(b) The Council has broken the tenancy agreement by failing to provide appropriate affordable heating

9. Prior to becoming a tenant, Ms D completed a Tenancy Agreement. This agreement details the Council's responsibilities to repair and maintain the property. The City of Edinburgh Council, along with other Scottish Councils are required to bring all of their properties up to the Scottish Quality Housing Standard by 2015. The guidelines for this state: *'electric storage heaters and fixed individual room heaters do qualify as full house central heating so long as they provide heat to rooms representing more than 50% of the total floor area'*.

10. The Tenancy Agreement signed by Ms D states in section 5.6 that the Council will: *'provide and maintain the house so that any tenant who we might reasonably expect to live in the house can heat the house to a reasonable temperature at a reasonable cost ...'*. The storage heaters fitted to Ms D's home are designed to be charged at night when low cost electricity is available (providing a separate meter is fitted), they then slowly discharge the heat during the day.

(b) Conclusion

11. Although it is clear that the system fitted was an acceptable form of heating, it was likely to be very costly to run as it could not take advantage of the off peak tariff available with a separate night time meter. As such I do not consider that this system would necessarily be affordable for a tenant and I partially uphold the complaint.

(c) The Council failed to fit an additional meter to allow for the use of cheaper night time electricity

12. The Council advised that it is not their responsibility to install additional meters to properties. They must only ensure that the main meter is fitted. In this case, however, they advised that a separate off peak tariff meter system should have been installed when the storage heaters were fitted. The lack of an additional meter should have been noticed when the property was inspected prior to Ms D's entry. This did not happen. The only explanation that has been provided by the Council is that this may not have taken place due to the imminent installation of the gas central heating system. Although, when first contact was made by Mr C to the Council in this regard, the Council advised that it was not their responsibility to ensure fitment of the extra meter, they have since agreed that this should have

been installed at an earlier date.

(c) Conclusion

13. The Council have accepted that they had a responsibility to fit the additional meter as part of the installation of the white meter system. As a result of this, I uphold this aspect of the complaint.

Recommendations

14. The Council have offered to pay Ms D the difference between her actual electricity costs and those she would have been charged had an off peak tariff meter been fitted. The Ombudsman commends them for taking this action prior to the production of our report. As a result of this, the only recommendation the Ombudsman makes is that the Council formally apologise to Ms D for their failure to take action earlier to remedy this error. The Ombudsman asks the Council to notify her when both the apology and the payment for additional electricity have been made.

29 August 2006

Explanation of abbreviations used

Mr C	The original complainant (and the aggrieved's representative)
Ms D	The aggrieved
Ms E	The new complainant and the aggrieved's new representative
The Council	The City of Edinburgh Council