

Scottish Parliament Region: Mid Scotland and Fife

Case 200500551: Perth and Kinross Council

Summary of Investigation

Category

Local government: Housing; Allocations

Overview

The complainant raised a number of concerns about the way in which her housing allocation had been handled by the Council.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) two Council Officers provided incorrect information in connection with medical advice relating to Property 1 (*not upheld*);
- (b) the Council delayed acting when informed of the unsuitability of Property 1 (*not upheld*); and
- (c) the Council failed to comply with the time limits of its complaints procedure (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council remind staff of the Council's commitment to answering complaints within the timescale specified in its complaints process and, furthermore, that complainants should not be referred to this office before they have exhausted the Council's own complaints process.

The Council have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 24 May 2005 the Ombudsman received a complaint from a woman (referred to in this report as Mrs C) that Perth and Kinross Council (the Council) had supplied inaccurate information with regard to the provision of independent medical advice, in relation to a property (Property 1) which was offered to her. Mrs C stated that the Council claimed that the property which Mrs C had been offered complied with her family's medical requirements; however, as it had stairs, this was not the case. She also complained that there was some delay in withdrawing the offer after the Council had become aware of the unsuitability of the property.

2. The Council had already fulfilled its duties under homelessness legislation and Council policy by offering Mrs C three properties which had all been turned down. The offer of Property 1 was made ex-gratia by the Council on 9 December 2004; it was the tenth offer made to Mrs C. On the 14 December 2004 Mrs C informed the Council that the property was not suitable for her family due to its stairs. There followed some confusion about the layout of the property and the medical needs of the family.

3. On 27 January 2005 Mrs C complained to the Council about the way in which her offer of housing had been handled. She also informed them that she was raising an action of judicial review. On 28 January 2005, the Council acknowledged Mrs C's complaint, but informed Mrs C that it could not be dealt with under the complaints procedure as it was already being handled by the Legal Department.

4. On 4 February 2005 the offer of Property 1 was placed on hold while its suitability was investigated. On 15 February 2005, Mrs C was offered another property (Property 2) which conformed to her family's needs. On 4 April 2005 the offer of Property 1 was withdrawn.

5. There followed several exchanges during which Mrs C accused Council employees of lying and acting illegally both in relation to Property 1 and the medical advice on which the offer was based. The Council refuted the accusations and explained that the offer had been based on inaccurate information relating to

Property 1 rather than an inaccurate medical assessment of Mrs C's family.

6. On 24 May 2005 Mrs C complained to the SPSO. She was told that she still needed to go through the Council's complaints procedure. The Council's complaints procedure was exhausted on 7 December 2005 when the Assistant Chief Executive provided a reply. He apologised for the incorrect identification of Property 1 as being suitable. He additionally maintained that the medical assessments of Mrs C and her family had been used correctly. He also stated that he could find no evidence of Council employees lying or acting illegally in the handling of Mrs C's housing application. The Ombudsman took on the complaint on 11 January 2006.

7. The complaints from Mrs C which I have investigated are that:

- (a) two Council Officers provided incorrect information in connection with the medical advice relating to the offer of Property 1;
- (b) the Council delayed acting when informed of the unsuitability of Property 1 and;
- (c) the Council failed to comply with the time limits of its complaints procedure.

Investigation

8. In the course of this investigation I have examined correspondence between Mrs C and the Council as well as the Council's complaints file on the matter. I have also made written enquiries to the Council on the specific points of complaint.

9. I have set out, for each head of complaint, my findings of fact and conclusions and recommendations. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Both Mrs C and the Council have been given the opportunity to comment on a draft of this report.

(a) Two Council Officers provided incorrect information in connection with the medical advice relating to the offer of Property 1

10. On 9 December 2004 Mrs C was offered Property 1. The Council stated that this property met Mrs C's medical requirements; however, upon inspection of the property Mrs C discovered that there were ten external and seven internal steps. Mrs C and her son's medicals had specified that properties should have ground

floor access entry with minimum access steps.

11. The Council came to their understanding of the layout of the property based on information provided by a Housing Officer (Housing Officer 1). This information was given verbally when they were told that the property had become available.

12. An independent medical assessor for the Council (Dr 1) was contacted on 21 December 2005 and confirmed that the property would be suitable for the family's medical needs. At this stage Dr 1 was of the understanding that the bulk of the flat was on the ground floor and that the rest of the accommodation was upstairs. On this basis, he advised that the property would be suitable for the family. On 22 December 2004 the Council confirmed that the offer of Property 1 was reasonable and that it complied with the family's medical recommendations in respect of minimum access steps.

13. Mrs C repeatedly contacted the Council to reiterate that the property was not appropriate due to the number of stairs. On 4 February 2005 the Council informed Mrs C that they were putting the offer of Property 1 on hold due to the concerns she had raised regarding the accuracy of the medical information on which the offer was based.

14. The Council then asked Housing Officer 1 to re-inspect the flat with particular attention to the layout and number of stairs. It was at this stage that the Council became aware of the actual layout of Property 1. Dr 1 reassessed the property based on the new information about its layout. He also contacted the family's GP in order to confirm that the family's medical needs had not changed. Dr 1 stated that there was 'a lack of clarity and consistency in the housing needs of the family on medical grounds'. This confusion arose due to the high number of medical assessments submitted by the family. Based on the new information on the layout of Property 1, he came to the conclusion that Property 1 was not suitable for Mrs C and her family. On 15 February 2005 Mrs C was offered Property 2.

15. The Council stated that the suitability of Property 1 was assessed based on inaccurate information relating to the physical characteristics of the property and not an inaccurate medical assessment of any member of Mrs C's family. At the time the offer was made, the Council had been of the understanding that

Property 1 had minimum access steps. Mrs C was unwilling to accept the Council's explanation and accused two Council Officers of deliberately lying and acting illegally in connection with this matter.

(a) Conclusion

16. The Council have admitted that their information relating to the physical characteristics of the property was wrong. This led to them giving incorrect advice relating to Property 1 as they believed that it conformed to the medical requirements of Mrs C's family. The incorrect advice was provided in connection with the physical characteristics of the property and not with the medical advice. I could find no evidence that Council employees either lied or acted illegally in connection with this matter.

17. The Council apologised to Mrs C for the 'confusion that arose at the time about the stairs within the property' in a letter on 27 October 2005. This apology was further reiterated in letters of 30 November 2005 and 7 December 2005. Mrs C was also assured that 'steps had been taken to ensure that such incorrect assessments are avoided in future'. In response to my enquiries, the Council have clarified that as a result of Mrs C's complaint, 'a full property inspection of all Perth and Kinross housing stock was completed in January 2006, which updated information currently held to ensure the accuracy of physical characteristics of each property'. This included information on external and internal layout. Additionally, a new housing management system is now in use which means that more specific information relating to all properties and to applicants' requirements are available. This will ensure that such a situation will not occur in the future. I commend the Council for taking these steps. I am satisfied that the Council had fully addressed this aspect of the complaint in advance of a formal complaint being made to the Ombudsman. I, therefore, do not uphold this complaint.

(b) The Council delayed acting when informed of the unsuitability of Property 1

18. On 14 December 2004 Mrs C wrote to the Council to inform them that the property was unsuitable as she maintained that there were a number of steps both externally and internally, leading to the second floor. The Council contacted their medical adviser on 21 December 2004. He confirmed that the property was suitable (it later turned out that this assessment had been based upon erroneous

information about the layout of the property). The Council replied that the physical characteristics of the property had been considered both by their Solicitor and by the independent Medical Advisory Service and that both considered the property suitable for the family's needs in that it had minimum access steps. This understanding was based on information given to them by Housing Officer 1.

19. The Council continued in its assertion that the accommodation was suitable despite Mrs C's protests, until the offer was placed on hold on 4 February 2005 in order for the Council to investigate its suitability. At this stage, the Council asked Housing Officer 1 to re-inspect the property and discovered that they had been mistaken about its layout. Mrs C was offered Property 2 on 15 February 2005.

(b) Conclusion

20. Mrs C clearly informed the Council on 14 December 2004 that the layout of the property was unsuitable due to the number of stairs it contained. Although the Council requested medical input on the suitability of the property on 21 December 2005, they did not review their understanding of the property's layout until the beginning of February 2005.

21. The Council have apologised to Mrs C on three occasions for the inconvenience and confusion caused to her by their erroneous understanding of the layout of Property 1. They have also taken steps to update their housing management system and the information held therein about the layout of the houses and the requirements of applicants. I am also mindful of the fact that the offer of Property 1 was made ex-gratia by the Council.

22. I commend the Council for the action it has taken as a result of this complaint. The steps taken by the Council before a formal complaint was made to the Ombudsman were sufficient to remedy the situation and I, therefore, do not uphold this complaint.

(c) The Council failed to comply with the time limits of its complaints procedure

23. Mrs C complained to the Council on 27 January 2005 and the Council acknowledged the complaint the following day, but informed Mrs C that they were unable to deal with it through their complaints procedure as she was taking legal

action.

24. On 23 September 2005 this office informed the Council that Mrs C was no longer taking legal action and the Council agreed to investigate the complaint. Mrs C received a reply to her complaint on the 31 October 2005 – this took 26 working days. The complaints procedure specifies that an answer will be given within 15 working days.

25. Mrs C was not happy with the answer she received to her complaint, so on 31 October 2005, this office asked the Council to progress the complaint to the next stage in the process. On 3 November 2005 the Council rejected the complaint and stated that a full explanation had been provided in the previous answer which Mrs C had received. The Council additionally referred Mrs C to this office.

26. This office called the Council on 8 November 2005 and they agreed that Mrs C's complaint should now progress through the final stage of their complaints process, which is review by the Chief Executive. Mrs C received a letter from the Assistant Chief Executive on 7 December 2005. This was 21 working days after the Council had agreed to progress the complaint to Stage 3 of the process. The complaints procedure specifies that an answer will be given within 15 working days.

27. The Council have told me that they received a considerable volume of correspondence from Mrs C and that the delays arose due to the fact that the Council had finite resources available to deal with these contacts.

(c) Conclusion

28. I uphold this aspect of the complaint as the Council exceeded the timescale specified in their complaints procedure on two occasions – on the first by 11 working days and the second by six working days.

(c) Recommendation

29. I recommend that Council employees should be reminded of the Council's commitment to answering complaints within the timescales specified in their complaints procedure and furthermore, that complainants should not be referred to

this office before they have exhausted the Council's own complaints procedure.

30. The Board have accepted the recommendation and will act on it accordingly. The Ombudsman asks that the Board to notify her when the recommendations have been implemented.

26 September 2006

Annex 1

Explanation of abbreviations used

Mrs C	The complainant
The Council	Perth and Kinross Council
Dr 1	The doctor who carried out the assessment of Property 1 based on Mrs C's family's needs.
Housing Officer 1	Housing Officer who provided information on the layout of Property 1 to the Council.
Property 1	The first property which was offered to Mrs C and which proved unsuitable.
Property 2	The second property which was offered to Mrs C and which she accepted.