

## Scottish Parliament Region: Mid Scotland and Fife

### Case 200503641: Stirling Council

#### Summary of Investigation

##### **Category**

Local government: Housing; Application for Re-housing

##### **Overview**

The complainant (Mrs C) considered she had to leave her former Council tenancy and sought advice from a housing officer. She said she was advised that if she gave up the tenancy and moved in with her parents she would be re-housed within six months. An offer of re-housing was not made and Mrs C complained to this office that she had been misled.

##### **Specific complaints and conclusions**

The complaints which have been investigated are that:

- (a) Mrs C was misled into giving up her tenancy on the basis that she would be re-housed within six months (*not upheld*); and
- (b) the Council supplied conflicting information which led her to believe that she had been overlooked for re-housing (*not upheld*).

##### **Redress and recommendation**

The Ombudsman has no recommendation to make. However, she expresses the hope that, given Mrs C's difficult current housing circumstances, the Council continue to assist her toward being re-housed at an early date.

## **Main Investigation Report**

### **Introduction**

1. Mrs C lives in a village in Stirlingshire (Town A). She suffered nuisance and other anti-social behaviour from her neighbours and explored with Stirling Council (the Council) her housing options. She believed that she had been misled as to the timescale of her being re-housed should she give up her tenancy and move in with her parents.
2. The complaints from Mrs C which I have investigated are that:
  - (a) Mrs C was misled into giving up her tenancy on the basis that she would be re-housed by the Council within six months; and
  - (b) the Council supplied conflicting information which led Mrs C to believe that she had been overlooked for re-housing.

### **Investigation**

3. The investigation is based on information supplied by Mrs C and the Council's response to my enquiry.
4. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mrs C and the Council were given an opportunity to comment on a draft of this report.
5. Mrs C and her husband were offered an upstairs one bedroom flat at 5 X Street in Town A by the Council. They accepted the offer and moved into the flat on 3 February 2003.
6. They said that they subsequently experienced problems with their neighbours downstairs at 3 X Street, particularly of noise nuisance and abusive behaviour. Mrs C alleged the occupants were dependent on drugs and that used syringes were discarded in her garden. She and her husband made reports to the police and to the Council. After Mrs C was threatened with a knife by an associate of her neighbour, the tenants of 3 X Street were evicted. The house was empty for a month then another tenant was allocated the house. Mrs C alleged that that tenant was sent to prison for criminal activity and the house at 3 X Street became empty again. In the meantime the flat downstairs at 7 X Street was occupied by friends of

the first occupants of 3 X Street who, she alleged, also had a drug habit. Mrs C's life was threatened again. On 27 September 2004, Mrs C wrote to the Council saying that she would withhold her rent until the problem was sorted. She stated that the tenants of 7 X Street were eventually evicted but, a few weeks later, the house was allocated to tenants who, she alleged, also had a drug problem.

7. Mrs C subsequently sought a meeting with a council housing officer (Officer 1) at her parents' house at Y Street, Town A. This took place on 21 September 2005 before Mrs C gave up the tenancy of 5 X Street.

8. Mrs C stated that the purpose of the meeting was to discuss her housing options. According to her, Officer 1 said that the best option would be for her to give up the tenancy of 5 X Street and to move back with her parents as she would receive points for overcrowding etc. Mrs C's mother is disabled; her 18 year old brother has Spina Bifida and they and another brother of 11 years share a three bedroom house. Mrs C was unaware at that time that she was one month pregnant. She recalled that Officer 1 assured her that she should have a house within six months. On the basis of this advice Mrs C and her husband gave up the tenancy of 5 X Street and moved in with her parents at Y Street. That house is now severely overcrowded. Mr and Mrs C sleep in the living room and all their belongings are stored in her parents' house.

9. Officer 1 provided a statement of the meeting as part of the Council's internal consideration of the complaint. She said that with the low level of points (70 points) Mrs C and her husband had accrued on their transfer application they could be on the transfer list for a long time. Mrs C's mother had asked about the consequences of her daughter and son-in-law ending the tenancy of 5 X Street. Officer 1 had explained that they would need to give 28 days notice and complete the necessary forms. They would not have to wait 12 months before reapplying. Their existing points would not be transferred. If they moved into Mrs C's parents' property at Y and reapplied they would be awarded 40 points for insecurity of tenure, 40 points for social inclusion, and 100 points for overcrowding. This would give them a total of 180 points for re-housing from the waiting list for Town A. Officer 1 is adamant that she did not advise Mrs C to end her tenancy and move in with Mrs C's parents or that she would be re-housed within six months if she followed that course of action. She had stated that, due to new private house

building in Town A, she understood that several properties were going to become available when these existing tenants of the Council received keys for their new homes. She had not quoted a figure of the likely number of tenancies to be given up. Finally, Officer 1 maintained that it was not her practice to inform any applicant of a timescale for their re-housing. This was due to lack of knowledge of when houses were handed back to the Council for re-letting and daily variability in waiting lists.

10. Within weeks of giving up the tenancy of 5 X Street and applying for re-housing from her mother's address, Mrs C met her local MP at her office and on 2 November 2005 the MP wrote on Mrs C's behalf to the Chief Executive.

11. The Director of Regeneration Services replied to the MP on 9 December 2005 confirming that Mrs C indeed had a total of 180 points for re-housing in Town A (with the same breakdown forecast at paragraph 9) and that she was at that date first on the mainstream list for Town A. It was pointed out, however, that their position on the list could change and that it could not be predicted when an offer would be made.

12. The MP wrote again to the Chief Executive on 11 January 2006. The Director of Regeneration Services stated in his reply of 18 January 2006, that Mrs C had the same points (180 points) but was now second on the list and that the turnover of two bedroom properties in Town A between July and December 2005 was seven houses.

13. A further enquiry by the MP was responded to on 15 February by the Director. He stated that Mrs C was now third on the list. He explained that the position could change daily since applicants were awarded points on the basis of need and circumstances. Houses becoming available were allocated alternately to homeless and mainstream applicants.

14. The MP forwarded a 'Talkback' complaint form on 20 February 2006, for Mrs C to complete. This was submitted and responded to on 23 February 2006 by the Housing Services Comments and Complaints Officer (Officer 2). Officer 2 confirmed Mrs C's points, and the Council's allocation policy. He stated that since Mrs C had selected only certain streets this had limited her chances of an early

offer. With reference to a claim that Officer 1 had said that Mrs C would be re-housed in six months, the Area Manager had informed Officer 2 that no timescale was given regarding Mrs C's re-housing. Officer 2 found no evidence that the Housing Area Team was not returning Mrs C's calls as she had alleged. He also stated that the Council had no procedure for prioritising Mrs C's application.

15. Mrs C pursued the matter under the Council's complaints procedure and met with the Council's Corporate Complaints Officer (Officer 3) on 28 February 2006. She had clarified at that meeting that she would accept a house in any street in Town A other than X Street. She confirmed that she was prepared to consider the Z area of Town A.

16. On 24 March 2006 Officer 3 responded in detail to Mrs C under Stage 3 of the Council's complaints procedure. Officer 3 clarified the complainant's area of choice. He said that 3 two bedroom properties in Town A had become available since Mrs C's application had become active on 19 October 2005. One was in X Street. In the other two applications, applicants from the mainstream list with higher total points than Mrs C had been allocated houses. Officer 3 referred to the visit on 21 September 2005 by Officer 1 and recounted her statement (see paragraph 9). Officer 3 also reiterated Officer 2's statement in response to an allegation of non-returned calls and the lack of provision in the allocation policy for Mrs C to be regarded as a special case.

17. Mrs C and her father met with Officer 3 at her request and went over the information given about her placing on the list and how in practice positions could change due to changes in points for personal circumstances. The effect on Mrs C's points of the imminent birth of her first child were discussed. Officer 3 checked with a housing officer after the meeting and telephoned Mrs C to say that additional points for overcrowding would be awarded.

18. Mrs C has since given birth to her child and was awarded additional points. Mrs C's application has now been awarded 265 points.

19. In considering all the evidence, I have reached the following conclusions.

*(a) Conclusion*

20. I can readily understand that Mrs C was desperate to be re-housed from 5 X Street. Had she stayed there then in all probability she would have had a longer wait than giving up her tenancy, moving in with her parents, and reapplying. There are clearly different recollections of what was said and it is not possible for me to reconcile those accounts. On balance, however, I am inclined to consider that the information given by Officer 1 was factual and that Mrs C made certain assumptions from that information which did not later prove to be the case. Unfortunately Mrs C's stay with her parents, which has understandably been difficult for all concerned, has been much longer than she anticipated. That is to be regretted, but it is not in my view the result of her being misled. I do not uphold this element of complaint.

*(b) Conclusion*

21. Several enquiries were made by and on behalf of Mrs C as to the progress of her application for re-housing. While Mrs C believes the information to be conflicting, I do not consider this to be the case. I have seen a copy of the note of Officer 3's meeting with Mrs C and her father and it is evident that Officer 3 took time to explain the workings of the waiting list and allocation of houses. Again I realise that with the birth of her child, Mrs C is anxious to be re-housed at an early date. I do not consider that there is evidence to suggest that her application was overlooked, nor do I consider that that inference could be drawn from the replies given in respect of her requests for an update on her position. I do not uphold this complaint.

*Redress and recommendation*

22. The Ombudsman has no recommendation to make. However, she expresses the hope that, given Mr C's difficult current housing circumstances, the Council continue to assist her toward being re-housed at an early date.

28 November 2006

**Explanation of abbreviations used**

Mrs C	The complainant
5 X Street	Mrs C's former council house
Y Street	The street of Mrs C's parents' home
Town A	The town where Mrs C and her parents live
Z Area	An area in Town A which Mrs C added to her areas of choice
The Council	Stirling Council
Officer 1	The housing officer who met with Mrs C at her parents' home on 21 September 2005
Officer 2	The Council's Housing Services Comments and Complaints Officer
Officer 3	The Council's Corporate Complaints Officer