

## Scottish Parliament Region: Mid Scotland and Fife

### Cases 200402093 & 200500680: Perth and Kinross Council

#### Summary of Investigation

##### **Category**

Local government: Housing - Finance (housing benefit and council tax) and Complaints handling.

##### **Overview**

The complainant (Mr C) alleged that Perth and Kinross Council (the Council) had delayed in attending to works which their surveyor considered necessary after an inspection at Mr C's home in 2003 and had unreasonably initiated legal proceedings against him. Mr C complained that they had harassed and discriminated against him.

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

The complaints which have been investigated are that the Council:

- (a) delayed in attending to works which their surveyor considered necessary after an inspection at his home in 2003 (*upheld*);
- (b) unreasonably initiated legal proceedings (*upheld*); and
- (c) harassed and discriminated against Mr C (*not upheld*).

##### **Redress and recommendations**

The Ombudsman is satisfied that the apologies already given by the Council and their offer of £800 in recognition of the time and trouble spent by Mr C in pursuing his complaints provided a suitable remedy to the matter. However, she recommends that:

- (i) when implementing repairs, the Council give careful consideration to the effects any disruption may have on those with health problems; and
- (ii) the Council reviews the channels of communication between the arrears and benefits sections of the Housing and Community Care Department.

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

## **Main Investigation Report**

### **Introduction**

1. On 18 February 2005 Mr C complained to the Ombudsman that Perth and Kinross Council (the Council) had delayed in completing works which their surveyor had considered necessary after an inspection of his home in 2003. Mr C then made a further complaint on 3 June 2005 that, as a result of his initial complaint, the Council were harassing and discriminating against him with regard to his housing benefit and later, unreasonably initiated legal proceedings against him for recovery of rent arrears.

2. The complaints from Mr C which I have investigated are that the Council:
- (a) delayed in attending to works which their surveyor considered necessary after an inspection at his home in 2003;
  - (b) unreasonably initiated legal proceedings; and
  - (c) harassed and discriminated against Mr C.

### **Investigation**

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including all the correspondence between Mr C and the Council. I have also had sight of relevant internal emails, data base entries for housing benefit and property repairs and Notices of Proceedings for Recovery of Possession dated 8 November 2004 sent to all members of Mr C's family. On 16 August 2005 a written enquiry was made to the Council and their response was made on 23 September 2005. The Ombudsman's investigating officer met with Mr C on 20 December 2005 and thereafter worked closely with the Council's Governance and Scrutiny Officer in an effort to achieve a resolution to the complaint.

4. My findings and conclusions are set out below and, although I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

#### **(a) The Council delayed in attending to works which their surveyor considered necessary after an inspection at his home in 2003**

5. Mr C said that in 2003 a surveyor, instructed by the Council, inspected his house and identified works that required to be carried out. As they had not been completed by February 2005 and were being overly disruptive, he made a

complaint to the Ombudsman's office. At that stage, it was clear from available correspondence that Mr C had repeatedly complained to the Council about this and that some work was in hand. Sincere apologies for the delay were made to Mr C by letter of 7 February 2005 and these were reiterated later (on 17 October 2005) in a letter to the Ombudsman's office. By then, the majority of the works had been carried out. Mr C confirmed to me on 6 December 2006 that all the works identified in 2003 had been completed with the exception of some repairs to a cupboard which he had put on hold earlier in the year.

*(a) Conclusion*

6. There is no doubt that there was delay in completing the required work and that this caused Mr C (who is disabled) and his family, severe upset. However, I am pleased to note that the Council recognised this and apologised. More recently (on 10 January 2007), in further recognition of the necessity for Mr C to make complaints and then to pursue them (see also below), the Council offered £800. I commend them for this.

7. I have considered the Council's offer in the light of the evidence surrounding Mr C's case and while I uphold the complaint, I am satisfied that the offer, together with the apologies proffered, provides a suitable remedy to the entire matter.

*(a) Recommendation*

8. The Ombudsman recommends that when implementing repairs, the Council give careful consideration to the effects any disruption may have on those with health problems.

**(b) The Council unreasonably initiated legal proceedings; and (c) The Council harassed and discriminated against Mr C**

9. It was Mr C's view that as soon as he began lobbying for the works to be completed (see paragraph 5) the Council began to take a particular interest in his circumstances and on 3 June 2005, he made his second complaint to the Ombudsman. He said that the Council had harassed and discriminated against him by constantly reviewing the circumstances surrounding his Council Tax and housing benefit claims and that this culminated in a warrant for the recovery of his Council house on 8 November 2004 (see paragraph 3).

10. I have considered all the available information (see paragraph 3) and I am satisfied that the Council were not harassing or discriminating against Mr C but

were reacting to his family's changes in circumstances. However, when a Notice of Proceedings for Recovery of Possession was issued to Mr C (see paragraph 3) his account was clear and the Council have since confirmed to the Ombudsman (during discussions about this aspect of the matter, see paragraph 3) that the above Notice should not have been issued and that there had been a breakdown in communications between various sections of the Housing and Community Care Department. By letter of 7 June 2006, the Council's Governance and Scrutiny Officer 'wholeheartedly apologised' to Mr C on behalf of the Council for the considerable distress which had been caused to him and his family. Thereafter, (paragraph 6), the Council reinforced their apology with an offer of £800.

*(b) and (c) Conclusions*

11. The Council have admitted that Mr C and his family should not have received Notices of Proceedings for Recovery of Possession (see paragraph 3) and I, therefore, uphold the complaint about this aspect of the matter. However, I am satisfied that the Council have sought to remedy matters (see paragraph 6).

12. While Mr C believed that the Council's erroneous action was intentional and that officers actively sought to harass and discriminate against him, I do not agree. I have seen evidence to show that on occasion Mr C's family circumstances changed and that as a result, the Council required to take action. Accordingly I do not uphold this aspect of the matter.

*(b) Recommendation*

13. The Ombudsman recommends that the Council review the channels of communication between the arrears and benefits sections of the Housing and Community Care Department.

14. On commenting on the draft of this report, the Ombudsman was pleased note that the Council accepted her recommendations. She asks them to notify her when they have been implemented.

23 May 2007

**Explanation of abbreviations used**

Mr C

The complainant

The Council

Perth and Kinross Council