

Scottish Parliament Region: North East Scotland

Case 200502524: Aberdeen City Council

Summary of Investigation

Category

Local government: Housing; Neighbour disputes and anti-social behaviour

Overview

The complainant (Mr C) claimed that Aberdeen City Council (the Council) failed to take appropriate action in response to complaints made by him regarding the anti-social behaviour of neighbours, and that the Council's response to his complaint about this was inadequate.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) there was inaction or inappropriate action taken by the Council in response to Mr C's complaints about anti-social behaviour (*not upheld*);
and
- (b) the Council's response to Mr C's complaint about their alleged inaction or inappropriate action was inadequate and inappropriate (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. On 7 December 2005 the Ombudsman received a complaint from a member of the public (Mr C) against Aberdeen City Council (the Council) alleging that the Council had failed to take appropriate action in response to complaints made by him regarding the anti-social behaviour of neighbours. Mr C also believed that the Council's response to his complaint about the matter was inadequate.

2. The complaints from Mr C which I have investigated are that:

- (a) there was inaction or inappropriate action taken by the Council in response to Mr C's complaints about anti-social behaviour; and
- (b) the Council's response to Mr C's complaint about their alleged inaction or inappropriate action was inadequate and inappropriate.

Investigation

3. It is important to make clear at the outset that it has not been my role to assess the individual complaints of neighbour nuisance and anti-social behaviour brought by Mr C but to judge whether the Council fulfilled their duties and responsibilities in dealing with the complaints in a reasonable manner and in line with relevant policies and procedures.

4. I have not included in this report every detail investigated but 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) There was inaction or inappropriate action taken by the Council in response to Mr C's complaints about anti-social behaviour

5. Mr C and his family were tenants of Aberdeen City Council. The tenancy which was allocated to them by a discretionary move from their previous Council property, began in August 2004. Mr C said he began to experience anti-social behaviour from his next door neighbour almost immediately and reported incidents to the Council. Mr C's wife (Mrs C) wrote directly to the Council's Chief Executive on 1 September 2005 as she wanted the Council to consider taking urgent action to deal with the situation as both she and Mr C were taking anti-depression tablets, and Mr C had been referred by his GP for counselling. She stated:

'We want as tenants some sort of immediate safeguarding from this horrible situation by you our landlords.'

Mr C then wrote to the Chief Executive on 31 October 2005 to lodge an official complaint regarding the Council's:

'... failure as a landlord to protect a tenant from a mentally unstable neighbour.'

Mr C said he had enquired of the Council about measures to help combat the anti-social behaviour, including getting motion-activated sensor lights and closed circuit television cameras (CCTV) installed, as well as getting a fence erected in the mutual drying green to the rear of the properties, but he had not had a positive response. He, therefore, claimed that the Council were failing in their duty as a landlord under the Scottish Secure Tenancy Agreement (SSTA) to protect him and his family and said:

'My interpretation of this is you have no intention of protecting us ...'

On 8 November 2005, Mr C wrote to his Area Housing Manager (Officer 1) again alleging that the Council were failing in their duty as a landlord under the SSTA. Mr C wrote to the Chief Executive on 16 November 2005 as he had not had a response to his complaint, and asked again what the Council were doing to protect his family, and if they could be re-housed elsewhere to get them away from the source of the anti-social behaviour.

6. The Chief Executive wrote to Mr and Mrs C on 24 November 2005 and acknowledged the slight delay in responding. He advised Mr C that, in line with Council's Estate Management Procedures for Neighbour Complaints (Neighbour Complaints Procedures), joint action with Grampian Police had been taken on the anti-social behaviour, but that there was insufficient evidence to pursue an Anti-Social Behaviour Order (ASBO). In relation to a fence in the drying green, he advised that the neighbours would need to consent to one being erected, but they had declined and, therefore, the matter could not be progressed. The Chief Executive also made it clear to Mr C that:

'The Council is not obligated under the terms of the Scottish Secure Tenancy Agreement to protect its tenants against the criminal actions of third parties. This is a matter for the Police ... In addition to this, we don't have a duty to erect fencing in terms of the lease nor to install CCTV or sensor motion lights. Clearly, we have not failed in our obligations ...'

He also advised Mr C that tenants did not have an entitlement to discretionary re-housing, as that was at the discretion of Council officers.

7. Mr C responded to the Chief Executive on 28 November 2005 re-stating his belief that the Council were obliged to protect his family and that he understood from Officer 1 that the Council's solicitors had said that this obligation arose under European law. Mr C then submitted his complaint to the Ombudsman on 6 December 2005, and wrote again to the Council's Chief Executive on 10 December 2005 to enquire about a response he was expecting. The Chief Executive wrote to Mr C on 22 December 2005 to advise that the Council were looking into the possibility of installing sensor lights at his property, but reiterated that a discretionary housing move was:

'... not a matter of right and is only used in exceptional circumstances.'

In terms of Mr C's claim about the Council having an obligation to protect his family under European law, the Chief Executive stated:

'In general terms the Human Rights legislation does not cover anti-social and criminal behaviour by one individual against another. However, Article 8 of the [European Convention on Human Rights (ECHR)] provides that everyone has a right to respect for his private life and his family life, his home and correspondence. Both your neighbour and yourself equally enjoy this right.'

The Chief Executive also introduced a restriction on Mr C's ability to contact the Council. This last point will be dealt with in section (b) of this report.

8. On 8 February 2006 the Council's Duty Social Work team in Mr C's area wrote to him to offer support in dealing with the problems he and his family had experienced with his neighbour, and asking him to contact them. However, Mr C emailed the Chief Executive the next day to question how he could take up this offer when his contact had been restricted. In response to my enquiries, Mr C told me that he had not been previously advised of the possibility of Social Work involvement and that, due to previous and unrelated dealings with the Council's Social Work Department, he was suspicious of the offer as:

'... an attempt of underhand behaviour to remove our children ... we were limited to one correspondence per week in total, we thought that safe guarding children or moving property was more important than the possibility of being judged as unfit parents. There was no explanation why they were to be introduced, why we should use them but they just were.'

There is no evidence that Mr C took up this offer of support.

9. Mr C's Member of the Scottish Parliament (MSP) wrote to the Chief Executive on 15 February 2006 and asked about progress on the drying green fence, the sensor lights and the discretionary housing move. Mr C wrote to me on 16 February 2006 and told me that a Council officer had visited his property that day to tell him that sensor lights would be installed the following week and that action on the fence was pending. A Senior Housing Assistant (Officer 2) at the Council wrote to Mr C on 17 February 2005 to advise that his discretionary move appeal would be heard by the Community Services (Cases) Sub-Committee on 23 February 2006. Mr C felt that the notice given of the appeal date was inadequate and further to this he emailed the Chief Executive on 20 February 2006 to complain that:

'I do not trust you to put in the strongest case to the panel, as you hate me ... I refuse to be drawn into your demonstration of the power you allegedly think you have. You are becoming an even greater bully than my neighbour in the manner in which you are dealing with my case or not dealing with my case.'

The Chief Executive wrote to Mr C on the same day to advise that the sensor lights would be installed in the near future and had been designated as a priority job. Officer 2 emailed Mr C on 24 February 2006 to report that he would be permitted a discretionary move but that to hasten the possibility of being rehoused, Mr C should agree to looking at properties in more areas of the city than just those local to his current area.

10. Mr C emailed me on 10 March 2006 to advise that he had been visited by contractors from a fencing company. The Chief Executive wrote to Mr C on 8 March 2006 to confirm, as agreed between Mr C and Council Technical staff, that the sensor lights would be fitted on 14 March 2006. He also clarified the offer of help from the Duty Social Work team which provided:

'... a service offering advice and assistance to tenants experiencing difficulties with their neighbours. You are not obliged to meet with [them]. It is merely an offer of support to you and your family ... Should you wish to contact [them], this will be in addition to the contact with [Officer 1] and [Officer 2].'

Mrs C emailed Officer 2 on 27 March 2006 to ask if he would let her know her family's position on the discretionary housing move list. Officer 2 responded on the same day and said that Homechoice, an organisation of which the Council was a partner, had a policy which meant that list positions were not divulged. He also said that discussions were continuing with Council Technical staff on the drying green fence. Mrs C immediately responded asking for her list position under Freedom of Information (FOI) legislation. Officer 2 replied to Mrs C the next day to say that he would need to take advice on how FOI related to the Homechoice policy. The Chief Executive responded to Mr C's MSP (see paragraph 9) on 29 March 2006 to advise that proposals for a fence had been submitted and further discussions were required with Mr C and his neighbours, that sensor lights had recently been installed, and that a discretionary transfer had been approved but that Mr and Mrs C had indicated that they were unwilling to extend the housing areas as requested by the appeal committee (see paragraph 9). Mr C wrote to Officer 2 on 10 April 2006 to:

'... demand a print out of my current position of my chosen areas ... I will request such a print out or [FOI] request, which is legal, once a month so there is no fiddling in queue positions because of Council negligence.'

The Chief Executive wrote to Mr C on 26 April 2006 to confirm that the sensor lights were fully functioning. He also discussed the drying green fence and the delay in moving this project forward, saying that it:

'... was never intentionally delayed or stopped ... Our investigations show there was a breakdown in communications between two of the Council sections involved, which led to an initial delay of six months ... The situation now, as I understand it, is that work commenced on-site earlier this week and the fence should be completed during the week of 24 April 2006. Please accept my apologies for the delay in getting this work done. We are reviewing our procedures to avoid similar delays to other tenants in the future.'

In relation to the request from the Council for Mr C to expand on his chosen housing areas, the Chief Executive explained that:

'We are not being obstructive about this. [The Council] simply does not have the housing stock to meet demands. If you are adamant that you are not prepared to widen your areas of choice, you may wish to consider other housing providers who may have properties that would suit your requirements. Please feel free to discuss this option with [Officer 2].'

11. The Council wrote to Mr C on 4 May 2006 to advise that his FOI request had been refused as it related to personal data. Mr C emailed the Chief Executive the next day to complain about the refusal notice and claimed that:

'This is the actions of a very very scared corrupt council as obviously there is something to hide if you are going to the bother of trying to twist another get out clause.'

In an email to me of 5 May 2006, Mr C sent me a copy of what he called:

'... the original planning permission for the back garden fence.'

The document Mr C sent was the Notice of Conditional Consent from the Landlord to erect a fence, dated 18 March 2005. This document stated that:

'For the avoidance of doubt you are specifically advised that the consent hereby granted is granted solely for the Council's interest as Landlords and does not mean that Planning Permission, if appropriate, or any other permissions which may be necessary has, have been or will be granted.'

In May 2005 it became apparent that the housing areas of the city that Mr C wanted under his discretionary move were not exactly the same as those being looked at by the Council. Officer 1 emailed Mr C on 30 May 2006 to explain that they would only look at areas considered 'like for like' with his current area in terms of housing provision, and that:

'None of the areas given to me yesterday during my telephone conversation with [Mrs C] ... fall into this category and they cannot therefore be considered under the discretionary powers.'

In an email to me of the same day, and in a telephone conversation with me of 7 June 2006, Mr C alleged that his name was being taken off the list for his chosen areas when houses in those areas became available. In another telephone conversation with me on 14 June 2006, Mr C told me that he had been offered a property in one of the areas that were apparently not being looked at by the Council, and he questioned how this was possible if it was not deemed as 'like for like' by them. Another Senior Housing Assistant (Officer 3) at the Council responded to Mr C's point by email on 21 June 2006:

'I would advise you that the ... areas did not appear on the report to the Community Services Sub-Committee of 23 February 2006 as they were not considered like for like areas at the time although they remained on the discretion as staff at the [Housing] Office were still consulted with the Selections team as to which areas could be offered to you.'

12. Mr C wrote to the city's Lord Provost on 17 June 2006 with a request that he look into the matter of the discretionary housing move. In response to this request, the Council's Corporate Director for Neighbourhood Services in Mr C's area (Officer 4) investigated the handling of the discretionary move and reported back to the Lord Provost on 25 August 2006. The report noted that there were deficiencies in how the discretionary move had been handled and that there was poor communication between the Council's Housing Selections and Housing Area teams leading to Mr C being passed over for the allocation of a property. Officer 4 concluded by recommending that the Council should clarify the discretionary move situation with Mr C and apologise to him. The apology was made in writing to Mr C by Officer 4 on 6 November 2006, but not until after Mr C had prompted it in an email of 24 October 2006. The position was clarified with Mr and Mrs C through weekly updates from Officer 4 during September 2006, October 2006 and November 2006, and in meetings with Officer 3. At one of these meetings, on 5 October 2006, Officer 3 made an offer of a property in one of the Mr C's chosen areas. The offer was accepted by Mr and Mrs C on 12 October 2006 and the lease was signed and the family moved in November 2006. In response to this, Officer 4 wrote to Mr and Mrs C to propose that he cease the weekly updates and that:

'Any queries regarding your new tenancy should be directed to the appropriate officer within Neighbourhood Services ... As you can see from the latest update, all matters regarding your [outgoing tenancy] have now been completed ... I trust you found the weekly issues list a more effective way of communicating and I hope that you and your family will be happy in your new home.'

Mr C exercised his right to buy the new property in September 2007 and is no longer a Council tenant.

13. In response to my enquiries, the Chief Executive told me that the anti-social behaviour Mr C previously reported had been dealt with under the Neighbour Complaints Procedures, which had been revised to ensure compliance with the Human Rights Act 1998. He also supplied records of the involvement of the Council's Neighbour Complaints Unit and liaison with Grampian Police, which showed that they had written to other neighbours in Mr C's street but had been unable to obtain corroboration to allow the Council to take action under the Antisocial Behaviour etc (Scotland) Act 2004. The Chief Executive said that the Council had clearly explained to Mr C, in particular in

letters of 22 December 2005 and 12 January 2006, what to do in the event of an anti-social behaviour incident and that alleged assaults should be reported to the Police. The Council's website on Neighbour Complaints also stated that :

'Anti-social behaviour ... which you consider to be serious should be reported to Grampian Police.'

In relation to Mr C's request for a fence in the mutual drying green, the Chief Executive clarified the situation that:

'The first boundary line mentioned relates to a line straight down the middle of the rear garden area, through the mutual drying green for which his neighbour's consent would be required. The secondary line is located at the edge of the drying green and it was based on this boundary that consent for the fence was given. The completion dates mentioned, refer to another fence (the rear trespass fence).'

In relation to the sensor lights, the Chief Executive explained that:

'The Council does not have a duty to install sensor lights. However, in an effort to alleviate the problems faced by [Mr C's family] and demonstrate good service and commitment to the family, the decision was taken to install the sensor lights.'

Mr C had been adamant that the Council had a duty under both the SSTA and European law to protect his family from his neighbour. The Council supplied me with a copy of their legal advice on this matter which said that the Council did not have a duty under the SSTA to protect his family from the criminal actions of third parties, and that Mr C and his neighbour enjoyed equal rights to respect for their private lives under European law (see paragraph 7). Mr C's neighbour was convicted of Breach of the Peace in July 2006 in relation to a specific incident outside Mr C's home.

14. The Chief Executive also supplied information on how Mr C's discretionary housing move was dealt with, including a paper from the Community Services Sub-Committee of 23 February 2006 which gave consideration to Mr C's appeal on grounds of neighbour problems, as well as being mindful of the availability of housing stock. The Chief Executive also supplied a copy of the Scheme for the Allocation of Council Houses – A Guide to the Council's Housing Allocations & Transfer Policies (the Allocation Scheme). The Allocation Scheme set out the context that at the time the Council was managing about 25,000 properties across 61 housing areas (about 7,500 in Mr C's area), with about 3,000

tenancies terminated each year and annual applications for tenancies ranging from around 8,000 to 10,000. The section of the Allocation Scheme on discretionary housing moves stated that:

'These applicants will be considered for the type of accommodation and the letting areas which the Community Services Committee or the Senior Officers within the Housing Service deem appropriate, depending on the circumstances of the case.'

(a) *Conclusion*

15. It is clear that the situation as reported to me by Mr C was very distressing for him and his family, and I do not underestimate this. However, it is clear that there was no duty on the Council under the SSTA to protect Mr C and his family from criminal activity. As for their rights under European law, it is not appropriate for me to determine this as it is a matter for determination in a court of law, however, it is clear that in considering Mr C's case the Council took this into account. Alleged acts of criminal behaviour were much more appropriate for the Police, with whom the Council liaised. It is clear that the Council took all reasonable steps under their Neighbour Complaints Procedure to respond to Mr C's complaint, including contacting neighbours to seek corroborative evidence, liaising with the Police and fitting sensor lights. I am satisfied that the evidence shows that the Council complied with their Neighbour Complaints Procedures by logging Mr C's complaints of anti-social behaviour and dealt with them in liaison with Grampian Police, but they were unable to take direct action against the neighbours as they could not obtain the necessary corroboration. It is also clear that appropriate action was taken by the appropriate agency, namely Grampian Police, that led to Mr C's neighbour being convicted of Breach of the Peace. To assist Mr C the Council installed sensor lights and examined the possibility of Mr C erecting a fence in the mutual drying green, but this could not progress as the necessary consent was not forthcoming. The Council also made an offer of support for Mr C's family via the Duty Social Work Unit which he did not take up, despite the Chief Executive making it clear that this contact would not be a breach of the restriction on Mr C's contact with the Council.

16. It is clear from Officer 4's report of 25 August 2006 that the handling of Mr C's discretionary housing move request was flawed. The Council accepted this and apologised for it, albeit belatedly, and committed to take action to avoid a recurrence. Had the Council not taken that action, and apologised, I would have recommended that they do so now. However, after the report the actions

of Officer 3 and Officer 4 facilitated the move to the new property that Mr C now owns. In addition, the Council's Allocations Procedure, as well as correspondence to Mr C from the Council, was clear that a discretionary move was not a matter of right for Mr C but was, as the name suggests, at the discretion of the Council's Community Services Committee or Senior Council Officers, both in terms of the type of property and the housing area. Mr C has now bought the property he was allocated in the discretionary move, and it is heartening that purchase appears to indicate that he and his family have settled into the new area.

17. On the basis of the evidence, and the actions of the Council in line with their procedures and in helping to remedy this matter, I do not uphold Mr C's complaint.

(b) The Council's response to Mr C's complaint about their alleged inaction or inappropriate action was inadequate and inappropriate

18. Mr C also complained that he believed that the Council's response to his complaint was inadequate and inappropriate, in part, because he said the Council did not meet their scheduled response times for getting back to him. In his letter of 16 November 2005 to the Chief Executive, Mr C said that he felt that Council were acting unprofessionally in their dealing with him, and because of this Mr C felt he was:

'... forced to ask if you have a personal grudge with me.'

In his letter to the Chief Executive of 28 November 2005, Mr C also referred to a previous complaint he made to the Council, and said that:

'... I feel I have been victimised by the whole council ever since ...'

In his letter of 10 December 2005 to the Chief Executive, Mr C referred to unrelated allegations against a member of Council staff, and said:

'This is in no way slandering or allegations made but facts if you take your usual attitude of resentment do please go straight to legal and we may resolve this in front of a judge.'

19. The Chief Executive responded to Mr C on 22 December 2005, and advised that he and his colleagues had concerns about the frequency and clarity of Mr C's correspondence, as well as use of threatening language and allegations being made against Council staff. He said that he had consulted the Scottish Public Services Ombudsman (SPSO)'s Policy on Unacceptable Actions

by Complainants (Unacceptable Actions Policy) and, after discussion with senior colleagues, decided to restrict Mr C's contact with Council officers. Mr C was told that his first point of contact was to be Officer 2 and, should he not be available, Officer 1 would deal with him, but that no other officer with Mr C's local Neighbourhood Services should meet with him, discuss matters with him or write to him. Mr C was advised that his contact was to be in writing only, although telephone calls would be accepted in an emergency, and that Officer 2 or Officer 1 would only deal with one piece of correspondence per week from him, and that correspondence must be reasonable, clear and not contain abuse. Having advised Mr C of the details of the restriction, the Chief Executive said:

'Failure to abide by these conditions carries the risk that your correspondence will not be dealt with. I must advise you that, in reaching this decision, whilst the steps we have taken are regrettable, I believe that this Council is still taking an accommodating approach. You will still be able to report matters to the Neighbour Complaints Unit as before and we will continue to assist with the difficulties you are having with your neighbour on the understanding that you are reasonable in the manner in which you communicate with Council staff.'

20. Mr C responded to the Chief Executive in a letter of 24 December 2005 and began by saying:

'Firstly as a Chief Executive of [the Council] the city of Aberdeen may be better off when you retire from you're highly paid job ...'

Mr C claimed he was being banned from contacting the Council and that the Chief Executive had been in contact with the SPSO to prevent an investigation, by classing him as a persistent complainer and introducing the contact restriction based on the SPSO's Unacceptable Actions Policy. He disagreed with the Chief Executive's view that he was a frequent, unclear and abusive correspondent, and claimed that Council staff were unclear and abusive with him.

21. The Chief Executive wrote to Mr C on 12 January 2006 to further explain his comments in his 22 December 2005 letter. He said that a key reason for the restriction was that Mr C's 'current style of writing' and the frequency of correspondence made it difficult for Council officers to determine what Mr C wanted and this had led to delays in responding, which the Chief Executive understood Mr C found annoying. He also explained to Mr C that:

'... the frequency of your communications was affecting officers' ability to provide a quality service not only to you but to other tenants. Unfortunately, the Council simply does not have the number of staff available to provide you with the level of personal attention you would wish. I would like to make it clear that it is extremely rarely that I have to write to members of the public about the nature of their contact with Council staff. I would be happy to review my decision when I see that you are taking my concerns on board. At the end of the day what I hope we will achieve is a better understanding of what your expectations of Council service are and what, in reality, we are able to provide.'

Mr C replied on 15 January 2006, again disputing the Chief Executive's view on the clarity and frequency of his communications, and said:

'I hope you feel that you and your staff have dealt properly and professionally with my issues and feel very proud in how you are ruining my city, my life and my children's safety and mental damage that could be caused to them by the stress in later life.'

Mr C had also sent emails about his neighbour problems to Officer 2 and Officer 1, and so the Chief Executive wrote to Mr C on 23 January 2006, 24 January 2006 and 10 February 2006 to further clarify the working of the restriction on contact, that Officer 2 would be the first point of contact 'for all housing related matters' and that in relation to the neighbour problems Mr C could still contact the Neighbour Complaints Unit and the Council's Noise Control Team.

22. Mr C emailed the Chief Executive on 26 January 2006 and gave the Chief Executive his view that his actions were:

'Once again a pathetic attempt of the Council's personal feud led by you against me is proven by your instructions relating to my sole permission to contact 2 members of the housing team ... Quite frankly if you would call me, so to leave no proof, just tell me you're not going to ever help me because it is personal then I would go away, remain a victim of crime ... Why can you not just be honest and stop this game you are playing with my life or do you get satisfaction from the alleged power you have?'

In an email of 29 January 2006 to the Chief Executive, Mr C introduced his own restriction on the Council contacting him, saying that:

'... I think it is for my own safety to enforce the same ban (clarity) upon you. I will only accept 1 letter from you per week and expect them to be of similar contents.'

Mr C also emailed the Chief Executive on 2 February 2006, 8 February 2006 and 13 February 2006 asking for a copy of a letter he believed had been sent by the Council to the SPSO complaining about him (see paragraph 20). The Chief Executive responded on 20 February 2006 to confirm that the Council had confirmed with me that no such letter had been sent or received. In relation to Mr C's comments that the Chief Executive held a personal grudge, he said:

'I must state, quite clearly, for the record, that I do not hate you and I find your allegations of bullying on my part unfair and without substance. In recent months, given the escalation of your unreasonable behaviour towards Council staff, I have been dealing personally with your complaints and I have tried very hard to help you. However, you have rejected these offers of help, instead continuing to accuse me of leading a personal feud against you. Further, given the considerable amount of time spent dealing with your various pieces of correspondence over the past few weeks, I must make you aware that the manner in which you write your emails is very disheartening for both myself and my staff. It is also very insulting and must stop. The language and tone of your emails are often offensive, unnecessary and unhelpful. From now on I will only respond to communications from you that are free of personal attacks. The same will apply to my staff. You may wish to reconsider my suggestion that you ask a friend, relative or solicitor to assist you with your correspondence, as I am happy to investigate any reasonable complaint you may make, however, I must insist that your complaints are made in a courteous manner. Corresponding through a third party may well be a way for us all to move forward.'

Mr C disputed this in an email to the Chief Executive of 23 February 2006, arguing that he had been 'very civil towards your staff', and that it was the Chief Executive's fault that he could not accept the offer of help from the Duty Social Work Unit (see paragraph 8) due to the 'ban' on contact. The Chief Executive refuted Mr C's stance in a letter of 8 March 2006, saying that he had already explained to Mr C in the letter of 10 February 2006 that contact with the Duty Social Work Unit would be in addition to the contact with Officer 2 and Officer 1. Mr C responded on 12 March 2006 by saying:

'... as you are paid to serve the city, of which I am a citizen, I am not asking you but telling you I am having a meeting with you, at your convenience, which I think is my entitlement as I contribute towards your wages and I am sure is on your job description.'

In a later email to me of 28 April 2006, Mr C said that:

'... a councillor mentioned that i was the talk of the whole building as the man who wouldn't lie down to [the Chief Executive].'

23. In response to my enquiries of him, Mr C said that he did not think his enquiries to various members of staff prevented them from doing their job professionally. In relation to the fact that the format of his letters to the Council changed each time in terms of font, font size, colour and layout, and that both letters and emails made regular use of bold, underlining, italics, capitals and multiple question marks and exclamation marks, and that this might make it off-putting for Council staff trying to deal with them, Mr C said:

'Possibly ... I suppose I felt I had to make the more important questions stand out trying to pull their attention to them so they wouldn't be ignored again and again ... there was never any intention behind it just trying to get the answers to the question I had raised.'

I asked Mr C if he thought that he had come across as sarcastic or aggressive in terms of how he had worded correspondence, Mr C said:

'Possibly sarcastic (caused by ... illness and councils reluctance to answer my questions) but I would have to strongly disagree with aggressive as how can you determine aggression on paper.'

Mr C said that he did have trouble writing letters, to the extent that:

'... I have to go over it three times as it doesn't make sense ... My wife now reads over all letters/emails before they are posted/sent to help matters and avoid any misunderstandings. I now also use spell check and grammar check on the computer before sending any correspondence.'

In relation to the contact restriction introduced by the Chief Executive, I asked Mr C if he felt it was made clear to him that he had not been banned. Mr C said:

'No, I was banned to one contact/correspondence in total to the entire council and not restricted to one correspondence/contact to each

department as there are numerous separate activities taking place. Therefore I have been banned by the Chief Executive ...'

24. In response to my enquiries of the Council, the Chief Executive advised me that the Council had tried to respond to Mr C's correspondence within the normal timescales, but that this was not always possible due to the difficulties they had experienced with Mr C's letters and emails, both in terms of clarity and frequency. He also said that all correspondence issued from his office was checked for plain English, and writing guidance was issued to staff to help them communicate as clearly as possible with members of the public. In relation to the nature of correspondence from Mr C, the Chief Executive said:

'... letters at times were written in an unacceptable tone. I accept they may not have contained specifically threatening language, however, they were very demanding and contained allegations that could seriously damage the reputation of named employees.'

He also explained that the offer of support from the Duty Social Work Unit was made '... after staff became concerned that [Mr C]'s emotional state was quite fragile at times' and he made reference to an email of 24 January 2006 in which Mr C referred to a nervous breakdown. The Chief Executive concluded by saying that from his perspective:

'... we have continued to try to help this family ... and are disappointed by our failure to be able to satisfy them and disappointed that our genuine and considerable efforts have been met with such vicious, vitriolic and unfounded attacks. In thirty years of public service I have never experienced a situation as difficult as this ...'

25. As dealt with under section (a) of this report, the situation improved following Officer 4's report (see paragraph 12). However, on 28 November 2007 Mr C wrote to the Chief Executive asking:

'Have you bothered to do, as you promised, which was to review my ban wrongly enforced over 1 year ago?'

The Chief Executive responded to Mr C on 5 December 2007 to advise that the contact restriction was introduced:

'... at a time when the manner in which you were communicating with the Council staff was unreasonable: your writing style was, at times, offensive and the volume of your letters and emails unmanageable ... I am aware that since [the restriction was introduced], you moved home ... which I

understand you recently purchased, therefore your key points of contact within the Council changed some time ago. For clarification ... as long as you are reasonable in the manner in which you communicate with Council staff, myself included, there will be no requirement to impose these restrictions.'

(b) Conclusion

26. The interaction between Mr C and Council staff has clearly been fraught with problems, and caused distress, frustration and difficulty to both parties. From my reading of the correspondence it is clear to me that Mr C's correspondence was difficult for the Council to manage, in part due to the number of emails and letters he sent to different officers and his tone, use of language and changing formatting. The Chief Executive made reasonable and constructive suggestions to assist Mr C (see paragraph 22) but Mr C did not view them as such and disputed the Chief Executive's view. I appreciate that Mr C said that he had difficulty in drafting letters and emails and it is clear that he did have some difficulty in comprehending the meaning of correspondence he received from the Council, given the nature of his responses. However, I consider that the contact restriction was clearly explained to Mr C on several occasions and it was a reasonable action for the Council to take under the circumstances, although Mr C reacted negatively to it and, in my view, petulantly given the tone of his correspondence thereafter in relation to what he saw as the 'ban' on contact. Despite the several clear and simple explanations from the Council, Mr C failed to understand the terms of the restriction, in that it was not a ban and it applied primarily to contact with his local housing office. In terms of Mr C's request, which became a demand, for a meeting with the Chief Executive, Mr C was under the misapprehension that, as a council tax payer, he could demand such a meeting. The Chief Executive was not obliged to meet with Mr C, and I consider that the manner of Mr C's request was unreasonable. Mr C's expectations of what the Council could do for him were also unreasonable, given the resource issues faced by the Council on an everyday basis (see paragraphs 14 and 21).

27. Mr C also made the repeated allegation that he was being victimised by Council staff and that the Chief Executive was bullying him and leading a vendetta against him. I have seen no evidence to support Mr C's claims, in fact the evidence points to the contrary, that Council staff were empathetic to his position (see paragraph 24). It is also important to record that there was no contact between the Council and the SPSO in relation to introducing the contact

restriction in December 2005. The Chief Executive used the SPSO's Unacceptable Actions Policy to guide his actions, but did not contact the SPSO about Mr C or discuss his case with SPSO staff.

28. I hope that Mr C's new housing situation is of benefit to him and his family, and that he does not have cause to complain to the Council again. However, if he does, I would encourage him to seek assistance from an advocate with knowledge of the general subject of the complaint and experience in dealing with complaints.

29. On the basis of the evidence I have seen, I do not uphold Mr C's complaint.

Explanation of abbreviations used

Mr C	The complainant
The Council	Aberdeen City Council
Mrs C	Mr C's wife
CCTV	Closed circuit television
SSTA	Scottish Secure Tenancy Agreement
Officer 1	Area Housing Manager
Neighbour Complaints Procedures	The Council's Estate Management Procedures for Neighbour Complaints
ASBO	Anti-social Behaviour Order
ECHR	European Convention on Human Rights
MSP	Member of the Scottish Parliament
Officer 2	First Senior Housing Assistant
FOI	Freedom of Information
Officer 3	Second Senior Housing Assistant
Officer 4	Corporate Director for Neighbourhood Services
The Allocation Scheme	A Guide to the Council's Housing Allocations and Transfer Policies
SPSO	Scottish Public Services Ombudsman

Unacceptable Actions Policy

SPSO's policy on Unacceptable
Actions by Complainants

Glossary of terms

Homechoice

A partnership of social housing providers whose aim is to make it easier for people to gain access to affordable housing in and around the Aberdeen area

List of legislation and policies considered

Antisocial Behaviour etc (Scotland) Act 2004

Aberdeen City Council Estate Management Procedures for Neighbour Complaints

Aberdeen City Council Scheme for the Allocation of Council Houses – A Guide to the Council's Housing Allocations & Transfer Policies

Scottish Secure Tenancy Agreement

Scottish Public Services Ombudsman Policy on Unacceptable Actions by Complainants