

Scottish Parliament Region: Central Scotland

Case 200603331: North Lanarkshire Council

Summary of Investigation

Category

Local government: Housing and Social Work Services

Overview

The complainant (Mr C) raised a number of issues with North Lanarkshire Council (the Council) concerning the handling of the storage and subsequent destruction of his belongings.

Specific complaint and conclusion

The complaint which has been investigated is that there was insufficient contact with Mr C before disposing of his belongings which had been held in storage (*partially upheld*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) include within their new Storage Procedures, advice for applicants using the storage facilities that they should detail any valuable items on the inventory; and
- (ii) ensure that a copy of the signed inventory is retained on the relevant file.

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

Main Investigation Report

Introduction

1. The complainant (Mr C), having found himself homeless after his separation from his wife, initially contacted North Lanarkshire Council (the Council) for assistance in obtaining a house. Mr C was put on the Council's homeless priority list. Mr C has not raised any concerns about the Council's handling of his housing application and this does not form part of my investigation. As a result of finding himself homeless Mr C required assistance with the storage of his belongings. Mr C was initially able to arrange for the storage of his possessions himself, however, this arrangement broke down and he again contacted the Council for assistance. The Council, in line with the Scottish Executive¹ Code of Guidance on Homelessness, agreed to arrange for the storage of Mr C's belongings.

1. On 29 January 2007 the Ombudsman received a complaint from a Member of the Scottish Parliament (the MSP) on Mr C's behalf. The complaint concerned the way the Council had handled the storage of Mr C's belongings and the subsequent disposal of his belongings.

2. The complaint from Mr C which I have investigated is that there was insufficient contact with Mr C before disposing of his belongings which had been held in storage.

Legislative background

3. The Scottish Executive's guidance on Homelessness (the Guidance) provides details of a local authority's obligations with regard to the protection of property. Chapter 12.1 of the Guidance indicates that 'if homeless people are to set themselves up successfully in a new home, they are likely to need all or most of their existing possessions. Therefore, the preservation of their possessions benefits not only the applicant themselves, but can produce savings to the public purse in terms of homelessness recurring, or the need for such support as provision of furniture'.

¹ On 3 September 2007 Scottish Ministers formally adopted the title Scottish Government to replace the term Scottish Executive. The latter term is used in this report as it applied at the time of the events to which the report relates.

4. Chapter 12.7 of the Guidance states that 'the duty or power to protect an applicant's property ceases when the local authority has reason to believe there is no longer any risk of loss or damage to it ... This will normally be the case where the applicant finds permanent accommodation where he or she can put their possessions'.

5. Chapter 12.14 of the Guidance states '... Local authorities should attempt to contact the applicant or other agencies who might have contact with the applicant ... before disposing of their belongings'.

6. Section 36(4) of the Housing (Scotland) Act 1987 gives local authorities power to impose, as a condition for agreeing to protect property, a reasonable charge for storing protected property, and can dispose of the property in circumstances which the local authority specifies in advance. Provided it so specifies in advance, the local authority can dispose of property if it has lost all contact with the applicant, in order to recover storage charges or other debts owed to it.

Investigation

7. My investigation involved examining all documents and correspondence provided by the MSP and Mr C and written and telephone enquiries were made of the Council. In addition, I have discussed the complaint with Mr C and with Council officers.

8. 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.

Complaint: There was insufficient contact with Mr C before disposing of his belongings which had been held in storage

9. In response to my enquiry, the Council explained that the Assessment Case Manager (Officer 1) had met with Mr C on 15 July 2005 and had provided advice on the Council's storage procedures.

10. The Council explained to me that Officer 1 had advised Mr C that it was his responsibility to maintain contact with the Tenancy Support Team within the Housing and Property Services Department (the Support Team), otherwise he risked the cancellation of the storage service and the Council would dispose of his belongings. In addition, I have been advised that Officer 1 explained to

Mr C that the Council would only provide storage until he received an offer of permanent housing. Mr C's belongings were placed in storage on 19 December 2005. Mr C accepted a property in April 2006. In commenting on a draft of the report, the Council advised me that they had understood that Mr C had agreed to the storage procedures. They explained to me that they felt, through their discussions with Mr C, that he had a very good understanding of the Council's processes and had no concerns that Mr C had not understood the importance of maintaining contact with the Council.

11. The Council have explained to me that the Support Team had not heard from Mr C since placing his goods in storage in December 2005. As a result of this, in September 2006, based on their understanding that Mr C had agreed to maintain contact with the Support Team, understood that Mr C had relinquished ownership of the items held in storage. In line with their procedures at that time, a letter was sent to Mr C on 15 September 2006 advising him he should contact the Support Team within 14 days otherwise his storage items would be destroyed. The Council explained to me that Mr C failed to respond to that letter.

12. On 26 September 2006, Officer 1 attempted to contact Mr C by telephone. As there was no reply a message was left on his answer machine requesting that Mr C contact the Support Team as a matter of urgency otherwise his belongings would be disposed of. Again, the Council have explained to me that Mr C failed to contact the Support Team. I have been provided with a copy of the file note detailing the action taken by the Council in an effort to contact Mr C. In commenting on a draft of the report, the Council advised me that Officer 1 had made a second telephone call to Mr C on the same day and had left a second message, but as there was no answer to either message, only one call was recorded on the file notes.

13. In October 2006, the Support Team contacted the storage company (the Storage Company) informing them that storage was no longer required and Mr C's items were disposed of and the storage fee cancelled.

14. On 7 November 2006, Mr C contacted the Support Team requesting the return of his belongings from storage. He was advised that, in line with the Council's procedures, his belongings had been destroyed as he had failed to respond to their letter and subsequent telephone calls requesting that he contact them.

15. Mr C maintained that he was never advised by the Council that his belongings would be destroyed if he failed to keep in contact with the Support Team on a regular basis nor was he advised that he would be charged for the storage costs. Despite this, Mr C indicated that he had kept in touch with the Council through his contact with the housing repair section in relation to the outstanding repairs required to his council property.

16. Mr C advised me that his property was not in a habitable state when he was allocated the property in April 2006 and, as a result, he was unable to take receipt of his belongings. He stated that part of the work required to the property involved plastering walls and that this had prevented him taking back his possessions. Mr C in commenting on a draft of the report advised me that, as he had felt unable to live in the property, he had stopped paying rent and had only commenced paying rent when the Council served him with a Notice of Proceedings for Recovery of Possession.

17. The Council have confirmed their position that Mr C's property had been in a habitable condition and, although there had been some minor repairs, these had not prevented Mr C from moving into the property in April 2006. When responding to a draft of the report the Council advised me that, in line with normal procedures, a settling-in visit had been carried out in May 2006. The purpose of the visit was to check that the tenant had moved into the property and had no problems. The Council confirmed that no action points were identified as a result of the visit. I have been provided with a copy of the pre-tenancy inspection report and the settling-in checklist which confirmed that there were no major repairs required to the property.

18. In responding to the additional information provided by the Council, Mr C confirmed that he had not been aware of the condition of the property when he had first accepted it. It was not until he had removed the wallpaper that he realised the extent of the repairs required.

19. Mr C also stated that he had contacted the Homeless Liaison Team to advise them that he was not yet in a position to accept his belongings due to the condition of the property. He indicated that he had been advised by the Homeless Liaison Team to get the repairs completed and give them at least four days notice that he wanted his belongings delivered to his property. Mr C

explained to me that he proceeded on this basis and was, therefore, shocked to be advised that his belongings had been destroyed.

20. In commenting on a draft of the report, the Council explained to me that they had no record of any contact being made with any of the Council's Housing Teams and that it would not have been normal practice to give such advice.

21. Mr C also maintained that he never received the letter from the Council advising him that his belongings would be destroyed if he failed to contact them. In addition, he explained that, as his mobile telephone number had changed when he obtained a new mobile telephone, he had not received the subsequent telephone message from the Council. Mr C accepted that he failed to provide the Support Team with his new telephone details. In commenting on a draft of the report, Mr C stressed that he had provided the repairs section and local housing office with his new mobile number.

22. The Council have explained to me that, in an effort to assist Mr C following the destruction of his belongings, the Tenancy Support Co-ordinator (Officer 2), having discussed the situation with his line manager, agreed on 8 November 2006 to provide some basic essentials requested by Mr C to allow him to move into his property. These included a vacuum cleaner, iron/ironing board, cooker, pots/pans, kitchen utensils, sofa and spare bed. The Council agreed to provide these items as a gesture of goodwill.

23. The Council advised me that, at that time, Mr C thanked Officer 2 for his co-operation and 'for going the extra mile'. Officer 2 also offered Mr C the contents of a house that had recently been donated to the support service. The Council have indicated that Mr C declined this offer on the basis that his house was not large enough and that he was satisfied that the items already provided would be sufficient.

24. Mr C contacted the Support Team again on 10 November 2006 indicating that he wanted some additional items. Officer 2 advised Mr C that, while authorisation had been given to provide essential items, the Council would not provide additional items.

25. Mr C advised me that he had been in a state of shock at the time of being advised that his belongings had been destroyed and that it was not until later that he realised the enormity of what had happened. At that point, he again

contacted the Council requesting further items, as he felt that the items provided by the Council would not allow him to support his three children when they stayed with him. In commenting on a draft of the report Mr C stressed that, while he had thanked Officer 2 for his help, he had not been satisfied with the action taken by the Council in relation to the storage of his belongings and had contacted both the MSP and his local councillor after being advised his goods had been destroyed.

26. During my investigation of Mr C's complaint, it became clear that there was disagreement over the items which had been held in storage for him. Mr C stated that there had been some valuable items placed in storage, for example, a 42-inch plasma television, leather suite and a computer. Mr C provided me with a copy of the inventory signed by him when the Storage Company removed his belongings to storage. However, the inventory, while indicating that a television and suite had been placed in storage, had not detailed the type of television or suite nor had it listed a computer as being placed in storage. In commenting on a draft of the report, Mr C advised me that he did have receipts for the purchase of the furniture he maintained was placed in storage. However, that, in itself, would not provide evidence that particular items were placed in storage.

27. The Council maintained that they had been advised by the Storage Company that all the items held in storage had been of poor quality. The storage company, as part of their accepted procedures, carry out a last check before disposing of goods looking for anything valuable or anything which might be recycled or gifted to charity. The Council explained that the Storage Company had confirmed that, while there had been a television in storage it had not been a plasma television, but a standard silver television of no significant size or value. They had confirmed that, a plasma television would have stood out and would not have been destroyed. In line with normal procedures, if any items held in storage were of value or in good re-useable condition the Storage Company would have contacted the Council for instructions on how to handle the goods. This did not happen in this case. The Council explained to me that nothing of value was ever destroyed and that any valuable items would be given to charity.

28. While the Council were originally unable to provide a copy of the inventory, in commenting on a draft of the report the Council provided me with a copy of the list of items held in storage signed by Mr C. Having considered the

inventory provided by Mr C and the Council, I am unable to establish with certainty what items were placed in storage.

Conclusion

29. In response to my enquiry, the Council have confirmed that, there was no file note of the advice given to Mr C in July 2005 when he requested assistance with the storage of his belongings nor was he apparently given a copy of the Council's storage procedures. I consider that it would have been good administrative practice for notes to have been taken of the advice given, and for a copy of the storage procedures to have been given to Mr C. However, the Council have explained that their procedures have been amended and that applicants are now provided with a copy of the Council's storage procedures. I am satisfied that these procedures clearly explain what is expected of the applicant, including the need to maintain contact with the appropriate section of the Council and what could happen should contact not be maintained. In these circumstances, I have no recommendations to make.

30. I accept that the Council followed their procedures in place at the time for dealing with items held in storage by them and that, in line with these procedures, they attempted to contact Mr C prior to disposing of his belongings, although I note that Mr C maintains that he did not receive the letter sent by the Council. It is also unfortunate that because Mr C failed to advise the Support Team of his amended telephone details, he did not receive the Council's telephone messages. I do believe, especially given Mr C's position about the value of some of the goods held in storage, that it was reasonable to expect him to contact the relevant section of the Council dealing with the storage of his belongings to ensure that they had his correct details. Had Mr C provided his details it is likely that the events which gave rise to this complaint would not have occurred.

31. I am also aware that there is disagreement over the condition of the property, although I am satisfied that the Council have provided evidence to support their position that the property was habitable when allocated to Mr C.

32. However, I have also had to consider, whether, having decided in September 2006 to withdraw the storage facility to Mr C, did the Council, at that point, make reasonable attempts to contact him before deciding to destroy his belongings. I consider that one letter and two telephone messages was insufficient notification of their intentions. In reaching this decision, I am aware

that the second telephone message was left because Mr C had failed to respond to the message left earlier the same day. I have also taken into account the fact that the Council had not lost contact with Mr C who was in regular touch with other sections of the same department dealing with the storage of his belongings. Although I accept that this contact was in relation to repairs required to Mr C's property. I have also taken into account the Guidance issued by the Scottish Executive relating to the importance of possessions to homeless people. On this basis, considering all the factors, I partially uphold the complaint.

Recommendations

33. The Council have explained to me that, in line with their amended Storage Procedures, three separate letters will now be issued to an applicant before any goods are removed from storage, the second and third letters being sent by recorded delivery. In addition, a copy of the Storage Procedures is now given to applicants before goods are placed in storage advising them of their responsibilities. I am satisfied that the measures taken by the Council will hopefully prevent a similar situation arising in the future.

34. The Ombudsman recommends that the Council:

- (i) include within their new Storage Procedures, advice for applicants using the storage facilities that they should detail any valuable items on the inventory; and
- (ii) ensure that a copy of the signed inventory is retained on the relevant file.

35. I have also been advised that it is open to Mr C to submit a claim to the Council's insurance section for compensation for the loss of his belongings. It is for Mr C to decide if he wishes to submit any claim which will be dealt with in line with the Council's policy. However, I would stress that I have been provided with no evidence of the quality or value of the items placed in storage.

36. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify her when the recommendations have been implemented.

Explanation of abbreviations used

Mr C	The complainant
The Council	North Lanarkshire Council
The MSP	Member of the Scottish Parliament
The Guidance	The Scottish Executive's guidance on Homelessness
Officer 1	The Assessment Case Manager
The Support Team	The Tenancy Support Team
The Storage Company	The company that were storing Mr C's belongings
Officer 2	The Tenancy Support Co-ordinator

List of legislation and policies considered

The Scottish Executive guidance on Homelessness

Housing (Scotland) Act 1987

