

Case 200500263: The City of Edinburgh Council

Summary of Investigation

Category

Local government: Housing; Repairs

Overview

The complainant (Mrs C) raised a number of concerns regarding water penetration into her Council rented property. Mrs C complained that The City of Edinburgh Council (the Council) did not carry out their duties when implementing repairs to her bathroom ceiling, which was damaged due to water ingress from a leak in the roof of the building. Mrs C also claimed that given the severity of damage to her bathroom, she and her family should have been provided with temporary accommodation.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Council's actions in carrying out relevant repairs were inadequate (*not upheld*); and
- (b) the Council failed to provide temporary accommodation (*not upheld*).

Redress and recommendation

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. On 16 September 2005, the complainant, referred to in this report as Mrs C, brought her complaint to the Ombudsman's office. It was clear, however, that Mrs C's complaint had not been fully reviewed under the complaints procedure of The City of Edinburgh Council (the Council). Mrs C, therefore, was directed to pursue her complaint formally with the Council. Mrs C later returned to this office and, after further consideration of the complaint, I decided to investigate.

2. The complaints from Mrs C which I have investigated are that:
- (a) the Council's actions in carrying out relevant repairs were inadequate; and
 - (b) the Council failed to provide temporary accommodation.

Investigation

3. In order to complete my investigation of this complaint I obtained evidence from the Council including copies of all relevant repairs and job orders for Mrs C's individual flat and also the communal block, a copy of the complaints correspondence documentation relating to Mrs C's tenancy and I also reviewed the Council's repairs policy.

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.

(a) The Council's actions in carrying out relevant repairs were inadequate

5. Mrs C's home is a top floor flat within a block. Shortly before Mrs C undertook her tenancy in March 2005, the ceiling of the bathroom within the property collapsed due to water ingress. Repairs were carried out by the Council, after which Mrs C moved into the property. During the next nine months, Mrs C reported a number of faults regarding water ingress, damage to her bathroom and water penetration from the roof.

6. I fully appreciate how distressing the water damage to the property must have been for Mrs C and her family, however, I must review the evidence to ascertain whether or not the Council's actions in carrying out repairs were adequate and in line with their repairs policy.

7. The evidence highlights the following:
- the Council carried out 23 separate repairs relating to water damage and leaks at the address between 21 October 2003 (18 months before Mrs C moved in) and 17 February 2006.
 - the source of the water ingress problem was identified as a problem with the chimney and a vent in the roof of the block.
 - the Council carried out temporary repairs in an attempt to prevent further damage to Mrs C's home.
 - Mrs C lives in a mixed tenure block including Council tenants and private owners. This significantly impacted on how quickly the Council could carry out a permanent repair given that the relevant legislation (The Housing (Scotland) Act 2001) requires the Council to obtain an estimate for the work to the roof of the block and also to obtain agreement from a majority of owners to proceed with the work as they would have to contribute to the communal repair of the roof.
 - the Council issued a work order on 5 December 2005 for the repair to be carried out as a majority agreement from the Owner Occupiers in the block had been obtained.
 - the permanent repair to the roof was completed on 16 January 2006.
8. The evidence also highlighted that the Council took reasonable action, given the circumstances, in carrying out inspections and numerous repairs to the internal damage of Mrs C's flat.

(a) Conclusion

9. Having examined all the relevant information, I am satisfied that in their actions, the Council complied with the requirements of Mrs C's tenancy agreement and the Repairs Policy. That is not to say that the damage was insignificant or inconsequential, as I believe that the situation must have been very distressing for Mrs C and her family, however, my investigation has sought to ascertain whether or not the Council acted appropriately in line with their remit. The evidence on file leads me to conclude that the Council acted in accordance with the relevant procedures and taking account of their obligations to inform and seek the agreement of owners within the block. As a result, I do not uphold this aspect of complaint.

(b) The Council failed to provide temporary accommodation

10. This point of complaint stems from Mrs C's assertion that the Council should have offered her temporary accommodation whilst her home was damaged by the significant water ingress. The damage caused by the water ingress included the ceiling of Mrs C's bathroom collapsing and also significant damage to other rooms in the flat.

11. The evidence shows that the Council will normally consider providing temporary accommodation to tenants when the home is deemed to be uninhabitable. The evidence shows that the Council communicated to Mrs C that they would not offer temporary accommodation as it was the Council's view, in their professional opinion, that at no time were Mrs C or her family without the full use of all their facilities. The Council did accept, however, that there was a degree of inconvenience placed on Mrs C and her family as a result of the damage.

(b) Conclusion

12. Having reviewed the evidence, I am satisfied that the Council, following assessment of the flat, concluded that temporary accommodation was not a suitable avenue to pursue. That was a discretionary decision which the Council were entitled to take and I find no failing in the way in which the Council arrived at their decision, therefore, I am not in a position to question their decision. Therefore, I do not uphold this aspect of complaint.

19 December 2007

Explanation of abbreviations used

Mrs C

The complainant

The Council

The City of Edinburgh Council

List of legislation and policies considered

The Housing (Scotland) Act 2001