

## Scottish Parliament Region: Highlands and Islands

### Case 200503214: The Highland Council

#### Summary of Investigation

##### **Category**

Local government: Housing; Right to Buy

##### **Overview**

The complainant (Mrs C) raised a number of concerns regarding her late mother (Mrs A)'s application to purchase her council house from The Highland Council (the Council). Mrs C felt that the Council had unnecessarily delayed the process and, as a result, the sale was not completed prior to her mother's death.

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

The complaints which have been investigated are that:

- (a) a staff member's lack of knowledge of relevant legislation which sets out a tenant's right to buy (RTB) their council rented property resulted in a delay in the processing of the application (*not upheld*); and
- (b) the Council's actions delayed the processing of the application unnecessarily and the clarification of Mrs A's eligibility to buy her Council house (*not upheld*).

##### **Redress and Recommendations**

The Ombudsman has no recommendations to make.

## **Main Investigation Report**

### **Introduction**

1. The complainant (Mrs C) brought her complaint to the Ombudsman's office on 20 January 2006. Mrs C raised a number of concerns regarding Mrs A's application to purchase her council house from The Highland Council (the Council). Mrs C felt that the Council had unnecessarily delayed the process and, as a result, the sale was not completed prior to her mother's death. It was evident that Mrs C had not completed the complaints procedure of the Council and was advised to continue pursuing her complaint with the Council. On 11 May 2006, Mrs C returned to the Ombudsman's office with her complaint and explained that she was still unhappy with the Council's final response to her complaint. The complaint was, therefore, eligible to be investigated by the Ombudsman at this stage.

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

- (a) a staff member's lack of knowledge of relevant legislation which sets out a tenant's right to buy (RTB) their Council rented property resulted in a delay in the processing of the application; and
- (b) the Council's actions delayed the processing of the application unnecessarily and the clarification of Mrs A's eligibility to buy her Council house.

### **Investigation**

3. In conducting my investigation into this complaint, I reviewed evidence submitted by Mrs C and also made written requests of the Council. The Council provided a very detailed response, including a timeline of events and a detailed record of what action was taken to progress the RTB application. I have also reviewed guidance relating to RTB procedures and timescales.

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) A staff member's lack of knowledge of relevant legislation which sets out a tenant's right to buy (RTB) their council rented property resulted in a delay in the processing of the application; and (b) The Council's actions delayed the processing of the application unnecessarily and the clarification of Mrs A's eligibility to buy her Council house**

5. Mrs C has alleged that a member of staff, Officer 1, had inadequate knowledge of the Right to Buy legislation. Mrs C claimed that this resulted in unnecessary delay of the progression of Mrs A's RTB application. The two points of complaint are very closely related and as a result I will deal with them both within this section of the report. I have attached a detailed timeline of the progression of the application at Annex 2 for information, which was supplied to me by the Council. The timeline provided by the Council contains not only a detailed record of events but demonstrates the ongoing action the Council were taking to process the application properly taking into account the circumstances of the case.

6. Mrs A submitted her RTB application on 31 August 2005. Mrs A was admitted to a nursing home on 20 July 2005 . Mrs A became a permanent resident at her nursing home on 5 September 2005 and then sadly, Mrs A passed away on 8 January 2006. Mrs C has claimed that the Council's failure to make an offer of sale, prior to Mrs A's death, was unacceptable.

7. The evidence shows that Mrs A had already been admitted to the nursing home when the Right to Buy application was submitted to the Council. Shortly after the application was received, Mrs A became a permanent resident in the nursing home. Therefore, the situation was that a tenant was applying to purchase a Council house, although they were not permanently resident in the property.

*(a) and (b) Conclusion*

8. Mrs C has informed me that Mrs A wished to purchase her Council house to have as an asset to pass on to her children after she passed away. However, having reviewed the evidence and the actions taken by the Council in handling the RTB application, I am satisfied that the time taken by the Council in processing Mrs A's application was not unreasonable and cannot be reasonably attributed to a staff member's lack of knowledge of RTB legislation.

9. The circumstances regarding Mrs A's tenancy were very complex, given her permanent residency in a nursing home, and raised difficult issues for the

Council in terms of how best to proceed with the application. I am satisfied, and the evidence demonstrates, that the Council took necessary action, including considerable internal communications over various departments, to clarify these complex points and I am satisfied that such action was carried out efficiently, within a reasonable timeframe and over a period which included closure of the Council office over the Christmas holiday period.

10. Furthermore, the evidence indicates that the Council have not breached the Right to Buy legislation in terms of the timescales of handling the application.

11. In conclusion, in providing a detailed chronology of events, the Council have demonstrated, in detail, the action which was taken relating to the processing of the application. As a result, the evidence does not support Mrs C's complaints, therefore, I do not uphold either aspect of complaint.

23 May 2007

**Explanation of abbreviations used**

Mrs C	The complainant
The Council	The Highland Council
Mrs A	The complainant's late mother
RTB	Right to Buy
Officer 1	Member of staff who dealt in part with the application
X Road	Mrs A's Council address

**Summary of key events in progression of application**

<i>Date</i>	<i>Comments</i>
20 July 2005	Mrs A admitted to Nursing Home
31 Aug 2005	RTB application received by Corporate Services from Mrs A. The application was signed by Mrs A and there was no mention of a joint purchaser and no mention of a Power of Attorney or anyone else who would deal with the application on her behalf.
5 Sept 2005	Mrs A became a permanent resident at Nursing Home.
8 Sept 2005	Arrears Check initiated by Corporate Services.
12 Sept 2005	Arrears Check completed by Finance Services.
15 Sept 2005	Housing received a query from the Council's Benefits Section in Finance Service regarding termination of the tenancy for X Road as Mrs A had been in the Nursing Home since 20 July and made a permanent resident on 5 Sept when she obtained funding.
16 Sept 2005	Report completed by Housing Management staff detailing the fact that Mrs A has become permanently resident in a Nursing Home and indicating what she had found out via contact with a relative. Uncertainty of RTB application now that the tenant was not permanently living in the house.

<i>Date</i>	<i>Comments</i>
22 Sept 2005	Exchange of emails between Housing Management staff detailing a conversation with Mrs A's daughter, following a rent arrears letter which had been issued (because of Housing Benefit being stopped due to funding in home). Mrs A's daughter was advised of the need to terminate the tenancy as Mrs A was now permanently resident in a Nursing Home.
29 Sept 2005	RTB application issued to Housing, Property & Architectural Services & District Valuer by Corporate Services.
30 Sept 2005	RTB application received by Housing Services for consideration and completion of various sections and return to Corporate Services.
5 Oct 2005	Email sent by Housing Management to Corporate Services with copy of report dated 16 September attached.
24 Oct 2005	Corporate Services received a reply from the District Valuer.
26 Oct 2005	Corporate Services received a reply from Property & Architectural Services.
8 Nov 2005	Email between Housing Management staff concluding that a member of staff would try to contact Mrs A's daughter and ask what Mrs A is planning to do as he thought that the tenancy was to be terminated now that she was in a home.

<i>Date</i>	<i>Comments</i>
17 Nov 2005	Email from Corporate Services to Housing Management confirming that the application cannot be completed until the Housing Service respond either by confirming the entitlement to discount or advising that they wish to refuse the application with reasons. Advised that it should be discussed with Housing Management.
22 Nov 2005	Email from Housing Management to Corporate Services advising that they had been told that the Council should refuse the application as Mrs A's circumstances had changed.
28 Nov 2005	Record of telephone call with Housing Management staff from Mrs C asking about the RTB application. Mrs C was advised during that conversation that unless Mrs A was going to return to the house the application would be refused. Mrs C advised that her mother could return home with nursing assistance and that she would write to the Area Housing Manager.
28 Nov 2005	Email from Housing Management to Area Housing outlining the background and advising that they may receive a letter from Mrs C.
2 Dec 2005	Area Housing received an email from Mrs C, concerning the RTB application.
8 Dec 2005	Area Housing was passed, for attention, copy of an email addressed to the Director of Housing from Mrs C concerning the RTB application.
14 Dec 2005	Letter sent from Area Housing (following receipt of advice from Legal staff) to Mrs C confirming that RTB sale would be allowed to proceed.

<i>Date</i>	<i>Comments</i>
14 Dec 2005	Email sent to Housing Management staff by Area Housing confirming decision to proceed with RTB application and asking that the RTB discount form should now be completed.
21 Dec 2005	Housing sent completed form with information to allow discount to be calculated, to Corporate Services.
23 Dec 05 to Wed 4 Dec 06	Council office closed over public holiday period.
5 Jan 2006	Email sent by Mrs C to Area Housing Manager with copy to Director of Housing regarding the purchase of X Road.
6 Jan 2006	Acknowledgement letter confirming that a response to the complaint would be sent by 19 January 2006.
8 Jan 2006	Mrs A passed away – in effect tenancy of X Road came to an end.
9 Jan 2006	Letter sent to Mrs C advising that Corporate Services had received the application on 21 December and would be submitting the required information to Legal Services early the following week, following which an offer of sale would be made. It was suggested that should an offer not be received by 20 February 2006, Mrs C should get back in touch.
12 Jan 2006	Email from Principal Housing Officer to Housing Management Officer 1 asking about the current situation as the tenant is deceased.

<i>Date</i>	<i>Comments</i>
16 Jan 2006	Housing Management Officer contacted Legal staff for advice and was told that as the offer had not been sent out, the RTB would not go ahead following the death of the tenant. Housing Management Officer to advise the family.
17 Jan 2006	Housing Management Officer telephoned Mrs C to advise re position regarding the RTB and that the application would not proceed, as advised by Legal. Housing Management Officer 1 also advised both Mrs C and her sister regarding the return of keys.
30 Jan 2006	Email received by Director of Housing from Mrs C complaining that the sale had not been completed, advising that her mother had died on 8 January 2006 and that the family still wished to proceed with the purchase.
15 Feb 2006	Response to Mrs C from Director of Housing confirming, after legal advice, that the right to buy ended with the death of Mrs A, that there were no succession rights to the property and as such, no family member could proceed with a RTB application.