

SPSO decision report

Case: 201204568, The City of Edinburgh Council
Sector: local government
Subject: statutory notices
Outcome: not upheld, recommendations

Summary

Mrs C rents out a flat, which she purchased over ten years ago. Three years after she bought it, the council issued an invoice for an emergency repair to the building. The statutory notice that they had given about this repair pre-dated her purchase, and Mrs C's solicitors told her that this was not in the information provided by the council during a search before she bought the flat. When her solicitors contacted the collection company dealing with the debt, they were told that the council had withdrawn the account. No further requests for payment were made.

More recently, during conveyancing for another property, Mrs C discovered that the council had taken legal action against her for payment of the old invoice. She paid this, but complained to the council that she was not liable, and that they had not contacted her about it before pursuing payment. The council refunded the expenses, interest and fees involved, but refused to also refund the amount of the original invoice for the repair. Mrs C complained to us that the council were unreasonably refusing to do so.

Our investigation found that the council made the payment as a goodwill gesture, in recognition of their mistakes in handling the invoice, including sending it to the wrong address. However, Mrs C was held liable for the amount of the repair because, although she was not the person on whom the statutory notice was originally served, she owned the property when the council issued the account. Any failure in the search undertaken when Mrs C bought the flat was for her to take up with her legal representative, as it appeared that her solicitors did not pursue this with the council when this became known. We did not find that the council had issued the invoice incorrectly, but we did think that they should have explained why a refund for the invoice was not given.

Recommendations

We recommended that the council:

- formally apologise to Mrs C; and
- review the handling of her complaint and whether any lessons can be learned to improve procedures.