

SPSO decision report

Case: 201600494, Inverclyde Council
Sector: local government
Subject: council tax
Outcome: some upheld, recommendations

Summary

Mr C had a number of concerns about the council's administration in relation to council tax. Mr C lets a property within the council's area, and when the tenants of his property changed, he provided information to the council about the change by email. The council sent Mr C a paper form by post and requested that he complete this so that the change in liability could be processed. Mr C complained that the council asked him to provide information in this form that he had already provided by email. We found that the information Mr C had provided by email would not have been sufficient for the council to correctly establish liability for the new tenants. We were therefore not critical that the council asked Mr C to complete a change in tenant notification form.

Mr C complained that the council had requested more information than was necessary to establish that a tenancy existed, and consequently that a tenant was the liable person. We found that the council had a policy to request a copy of the tenancy agreement as well as a copy of a special notice (an AT5 notice) that would make a tenancy a short assured tenancy. The council advised us that, although an AT5 was not required in terms of council tax legislation, they requested this document for a number of other reasons, including to promote best practice in the private rented sector. We were critical that the council had held Mr C to be the liable person for council tax when they held enough information to determine that this was not the case. We were also critical that the council's complaint response to Mr C was inconsistent with the council's guidance on tenancies and AT5 notices. We upheld this complaint and made recommendations.

Finally, Mr C complained that the council had asked him to provide an AT5 notice to tenants retrospectively. We found that the council had acknowledged that a customer service representative had given improper advice regarding when an AT5 could be provided and had apologised to Mr C for this. The council also said that refresher training had been arranged and that staff had been reminded of the guidance, which correctly states that an AT5 notice cannot be provided retrospectively. We upheld this complaint, but we made no further recommendations.

Recommendations

We recommended that the council:

- review the policy to request AT5 notices in relation to council tax liability taking into account the findings of this investigation;
- take steps to ensure that relevant officers are familiar with the council's published guidance on Short Assured Tenancies and AT5 notices; and
- provide Mr C with a written apology for the failings identified within this investigation.