

Case 200502738: Southside Housing Association Ltd

Summary of Investigation

Category

Housing Associations: Policy/Administration

Overview

The complainant (Mr C) said that he had been appointed to a Southside Housing Association (the Housing Association) Sub-Committee and then excluded from meetings. He was also concerned that his complaint had not been heard at the final stage of the Housing Association's procedure.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) Mr C was appointed to a Housing Association Sub-Committee and then excluded from meetings (*not upheld*); and
- (b) the Housing Association did not consider his complaint at their appeal stage (*not upheld*).

Redress and recommendation

The Ombudsman recommends that the Housing Association clarify in information given to complainants the time limits for appeal and that they will not consider an appeal outwith the agreed timescales unless the complainant can provide good reasons for any delay.

The Housing Association have accepted the recommendation and will act on it accordingly.

Main Investigation Report

Introduction

1. Under a contract with Glasgow Housing Association, Southside Housing Association (the Housing Association), is responsible for providing three Local Housing Organisations (LHO's) to manage Glasgow Housing Association stock. Each LHO has a Committee which is responsible for the day-to-day management of the stock and which, under the Housing Association's rules, is established by the Management Committee of the Housing Association (the Committee) as a Sub-Committee.

2. On 9 December 2004 a man, (referred to in this report as Mr C), attended a meeting organised by one of the LHOs for which the Housing Association is responsible. One of the goals of this meeting was to find volunteers for the inaugural membership of the Sub-Committee for that LHO.¹ Under the rules for such Sub-Committees there were places available for tenants and owners who were members of the LHO. Mr C was an owner member and had expressed an interest in membership of the Committee. As there were more owners who wished to be appointed than places available, it was decided that Mr C and a woman who was absent but had expressed an interest (Mrs A) would have 'observer status'². On 7 March 2005, Mr C received a letter which said that Communities Scotland, the regulatory body for Housing Associations, had expressed concerns about this arrangement. Following legal advice, the Housing Association subsequently removed Mr C from the Sub-Committee. Mr C complained and, as he was unhappy with the initial response from the Housing Association, decided to appeal. He did so on 14 June 2005. The Housing Association did not hear this appeal as they said that this was outwith the time limit allowed for such appeals in their procedures.

3. The complaints from Mr C which I have investigated are that:

- (a) Mr C was appointed to a Housing Association Sub-Committee and then excluded from meetings; and
- (b) the Housing Association did not consider his complaint at their appeal stage.

¹ The rules state that once a Sub-Committee has been established an election has to be held for these posts within 18 months and then annually.

² The Housing Association have confirmed that Mrs A never attended or attempted to attend meetings in this capacity.

Investigation

4. In investigating my complaint I have read the relevant correspondence between Mr C, his solicitor and the Housing Association. I have also had sight of relevant minutes of Committee and Sub-Committee meetings, interviews conducted during the Chair of the Housing Association's (the Chair) investigation of Mr C's complaint and the rules of the Housing Association and Scheme of Delegation for the Sub-Committee.

5. 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 Housing Association were given an opportunity to comment on a draft of this report.

(a) Mr C was appointed to a Housing Association Sub-Committee and then excluded from meetings

6. As indicated in paragraph 2, the meeting of 9 December 2004 was held to appoint members to the Sub-Committee. There were ten places on the Sub-Committee, six were for tenants, two for owners and two to be designated by the Committee. One owner and one tenant had already been approved. Five owners had put their names forward. At the meeting it was agreed to use the two places that could be designated by the Committee for owners and this left two owners who had put their name forward but for whom there was no place. Mr C agreed he would accept observer status and it was agreed this would also apply to the remaining owner (Mrs A) who had put her name forward but was not present.

7. A Committee meeting of 27 January 2005 ratified the membership of the Sub-Committee. In the minutes Mr C and Mrs A are listed as observers. In a letter of 9 February 2005, Mr C was welcomed to the Sub-Committee as an observer and asked to sign a code of conduct which was mandatory for all members. Mr C attended meetings of the Sub-Committee on 17 January 2005 and 21 February 2005. The minutes indicate he was an active participant. On 7 March 2005 Mr C received a letter from the Director of the Housing Association (the Director). The Director said that while Communities Scotland were happy with occasional observers attending Sub-Committee meetings they had informed him it was not normal for observers to be full participants or attend regularly. As a result the Housing Association had contacted their solicitors for advice and it seemed likely that his membership of the Sub-Committee could not continue. The letter also said that Communities Scotland had suggested

they set up an owners' forum. On 11 March 2005 a further letter from the Director confirmed that, following receipt of legal advice, Mr C would no longer be able to participate. The letter contained a copy of the legal advice and an apology for the way in which matters had developed. The Director said that he would be happy to explore both the option of an owners' forum or of reviewing the size and composition of the Sub-Committee.

8. Mr C's solicitor wrote a formal letter of complaint to the Housing Association on 24 March 2005. This maintained that Mr C had been appointed to the Sub-Committee by the Committee and could not now be removed. It also alleged that the reason behind the exclusion was Mr C's active participation at the meeting in February. Further, it said that Mr C was concerned that in his contact with Communities Scotland, he had been informed that the Housing Association had contacted them first which seemed to contradict the Director's statement in his letter of 7 March 2005.

9. The Chair carried out an investigation of Mr C's complaint. Those present at the December 2004 meeting were interviewed and a statement was given to the Housing Association's solicitor by a manager with Communities Scotland. The statement said that Communities Scotland had initially contacted the Housing Association for information as they were preparing a background briefing for a meeting Mr C was to have with the Housing Minister. It was as part of this conversation his status was discussed and, subsequent to this, that the regulation division of Communities Scotland asked for clarification and raised concerns. The interviews confirmed that Mr C accepted observer status and that others present at the meeting believed Mr C understood this was not full membership.

10. Following the investigation, a detailed response was sent to Mr C's solicitor on 29 April 2005. This did not uphold any of Mr C's complaints.

11. In response to my enquiry, Mr C confirmed that a meeting had been arranged with the then Communities Minister in October 2004 and that this was then rescheduled for March 2005.

(a) Conclusion

12. On the evidence I have seen, the investigation by the Chair of Mr C's complaint was extremely thorough and shows clearly that the decision to exclude Mr C was made on the basis of the advice given to the Association by their own solicitor and Communities Scotland. Although I understand that Mr C's solicitor disagrees with this interpretation of their rules, in the circumstances, I do not see how the Housing Association could have acted otherwise.

13. I can also appreciate Mr C's frustration at being informed he could have observer status only to be later told this was not possible. However, given the Housing Association have apologised for the initial error in suggesting that it would be possible for Mr C to attend as an observer prior to the complaint being made to the Ombudsman's office, I do not uphold this complaint.

(b) The Housing Association did not consider his complaint at their appeal stage

14. The letter of 29 April 2005 said that if Mr C was happy with the response he need take no further action and the file would be closed within 14 days. If he wished to appeal a form was attached for this purpose.

15. On 17 May 2005, Mr C's solicitor wrote to ask whether the time limit could be extended to 31 May 2005. The Housing Association agreed to this. The solicitor then wrote to the Housing Association on 14 June 2005 saying he had not been able to respond sooner because of court and tribunal commitments. Having taken advice from their own solicitor, the Chair of the Appeals Sub-Committee wrote to Mr C's solicitor on 21 June 2005:

'You will doubtless be aware of the importance of dealing with matters timeously and indeed your initial request for an extension indicates that awareness. In the circumstances where a complainer is legally represented and has requested an extension to the time for lodging an appeal and then fails to lodge such an appeal within that extended period I must consider the basis on which the request is made.

I do not consider that the basis proffered for allowing an appeal outwith the extended period namely your court and tribunal commitments is sufficient that I am prepared to allow such an appeal and accordingly your client's request is refused.'

(b) Conclusion

16. Mr C's solicitor was made aware of the time limit and correctly sought an extension when he realised he could not achieve this. However, he made no attempt to contact the Housing Association when it should have been clear that he would miss this new deadline. The letter was submitted a full 14 days later. The Housing Association took advice on this matter and clearly explained their reasons for not exercising discretion to consider Mr C's appeal and, in the circumstances, I do not uphold this complaint.

(b) Recommendation

17. I am not upholding this complaint as Mr C's solicitor was made aware of the time limit and was able to request an extension. However, I have identified an area for improvement. I have carefully read through the Housing Association's standard letters and leaflets on their complaints procedure (see in particular paragraph 14) and the Ombudsman recommends that the Housing Association clarify in information given to complainants the time limits for appeal and that they will not consider an appeal outwith the agreed timescales unless the complainant can provide good reasons for any delay.

18. The Housing Association have accepted the recommendation and will act on it accordingly. The Ombudsman asks that the Housing association notify her when the recommendations have been implemented.

27 March 2007

Explanation of abbreviations used

Mr C	The complainant
The Housing Association	Southside Housing Association
LHO	Local Housing Organisation
The Committee	Management Committee of Southside Housing Association
The Sub-Committee	The Sub-Committee set up to manage the LHO by the Committee
Mrs A	The other owner who had put her name forward
The Chair	The Chair of Southside Housing Association
The Director	The Director of Southside Housing Association

List of legislation and policies considered

Rules of Southside Housing Association Ltd

Southside Housing Association's Scheme of delegation for Local Housing Organisation Committees