

## Scottish Parliament Region: West of Scotland

### Case 200502753: Renfrewshire Council

#### Summary of Investigation

##### **Category**

Local government: Finance - Housing Benefit and Council Tax

##### **Overview**

The complaint concerns Renfrewshire Council (the Council)'s alleged delay in progressing a housing benefit appeal.

##### **Specific complaint and conclusion**

The complaint which has been investigated is that there was delay in progressing the housing benefit appeal (*upheld*).

##### **Redress and recommendations**

The Ombudsman recommends that the Council:

- (i) ensures that appellants receive regular, written updates of the progress of their case;
- (ii) apologise for not advising the complainant of the outcome of a review; and
- (iii) make an appropriate payment in recognition of the time and trouble taken in bringing the complaint to the Ombudsman.

The Council have accepted the recommendations and will act on them accordingly.

## **Main Investigation Report**

### **Introduction**

1. On 8 March 2006, the Ombudsman received a complaint from Mr C concerning the way in which the Council handled his housing benefit appeal. He alleged that there had been delay in passing his appeal to the Appeals Tribunal for consideration. As a consequence of which, his health problems had been exacerbated and he had fallen further into debt.

2. The complaint from Mr C which I have investigated is that there was delay in progressing the housing benefit appeal.

### **Investigation**

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr C and the Council and notes of relevant telephone calls. On 1 August 2006, a written enquiry was made of the Council and their subsequent response was dated 28 August 2006.

4. While I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mr C and the Council were given an opportunity to comment on a draft of this report.

### **Complaint: There was delay in progressing the housing benefit appeal**

5. The Council said that on 21 March 2005 they received a claim for Housing and Council Tax benefit from Mr C which was hand-delivered by his wife and brother. A letter notifying Mr C of the Council's view that he was excluded from receiving benefit was sent to him on 23 March 2005. This letter advised the complainant of his right of appeal within one month. On 26 April 2005, a Social Work Officer on behalf of Mr C, submitted an appeal and, on 27 May 2005 the Council wrote to Mr C confirming acceptance of his appeal and requesting that he provide specific information within a month, to assist in its determination. Mr C provided the information by letter of 5 July 2005.

6. Mr C said that by January 2006 he had still not heard from the Council about the progress of his appeal so, on 13 January 2006, he formally complained to the Director of Finance and Information Technology (IT). He said the delay was

unacceptable, causing severe hardship and causing his health to suffer. The Council's Customer Complaints Officer acknowledged this on 23 January 2006 and said that a written response would be sent to him no later than 6 February 2006.

7. The Director of Finance and IT wrote to Mr C on 11 February 2006 apologising for the length of time this matter had taken to progress to the Appeals Tribunal. She confirmed that it had been passed to the Independent Appeal Service on 17 January 2006 at which time Mr C had also received a full copy of the Council's appeal submission. The Director went on to say that she had been disappointed about the time it had taken but that there had been 'some confusion over who would be the best person to deal with your enquiry'.

8. The Council's response to me of 28 August 2006 confirmed that there had been delay in progressing Mr C's appeal to the Appeals Tribunal. They said that Department for Work and Pensions (DWP) required that 65% of appeals were to be submitted to the appeal service within four weeks of the request being made; and 95% of appeals must be submitted to the appeals service within three months of the date of the request being made. Mr C's appeal failed to progress within these standards but they said that this was because it was unusual and 'the disputed decision related to an aspect of benefit law that seldom has to be applied. Furthermore, (Mr C's) case represented the first time an appeal under regulation 7(1) of the Housing Benefit (General) Regulations 1987 had been dealt with by the Council' (Annex 2).

9. As a consequence, the Council said that officers had required to carry out an in-depth analysis of the case and to seek advice from other local authorities before researching both case law and Social Security Commissioner decisions. They indicated that the work involved in preparing this case was much greater than usual. They emphasised, however, that despite the information contained in the Director of Finance and IT's letter of 11 February 2006 (see paragraph 8), there had been no confusion over who was dealing with the case. They said that the review undertaken because of the enquiry made to them on 1 August 2006 (see paragraph 3) had been more comprehensive than that initially taken as a consequence of Mr C's complaint and had shown that the delay was entirely related to the complexity of the case. In the light of this, a letter was sent to Mr C on 11 October 2006 apologising for this misleading information.

10. Their response also indicated that after receiving Mr C's letter of 5 July 2005 (paragraph 5), they had reviewed their decision not to pay Mr C benefit on 28 August 2005, as part of their appeals process. However, their decision was unchanged. While the Council conceded that it would have been good practice to advise Mr C, this did not happen and the Director of Finance and IT apologised (although not to the complainant). It also appeared that the Council arranged an interview with Mr C for 23 November 2005 but that he failed to appear. Afterwards, an unsuccessful attempt was made to telephone Mr C on 19 December 2005. It was, therefore, not until 17 January 2006 (see paragraph 8) that Mr C became aware that the Council had sent a submission to the Appeals Office. This was confirmed by the Director of Finance and IT's letter to him of 11 February 2006.

#### *Conclusion*

11. Mr C submitted all the information requested by the Council in order that they could deal with his complaint on 5 July 2005. Although the Council arranged to meet with him on 15 November 2005, and despite an unsuccessful attempt to telephone him on 19 December 2006, it was not until 17 January 2006 that he was given an indication that a submission had been passed to the Appeals Tribunal. This was not confirmed until 11 February 2006 (paragraph 8). I accept that the complicated nature of Mr C's appeal required that it took the Council longer to consider, but, DWP targets require 95% of appeals to be submitted to the appeals service within three months. Mr C's took twice this time and he was not kept properly informed. He was misled about the reasons for the delay (paragraph 9). In the circumstances, I take the view that this amounts to maladministration and I uphold the complaint.

#### *Recommendations*

12. The Ombudsman recommends that:

- (i) in the future appellants, like Mr C, receive written, periodic updates of the progress of their case;
- (ii) the Council apologise for their omission in not advising Mr C of the outcome of their review on 28 August 2005 (paragraph 10); and
- (iii) make an appropriate payment in recognition of the time and trouble taken to bring the complaint to the Ombudsman.

13. The Council have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the Council notify her when the recommendations have been implemented.

30 January 2007

**Explanation of abbreviations used**

Mr C	The complainant
The Council	Renfrewshire Council
DWP	Department for Work and Pensions

**List of Legislation and Policies Considered**

Housing Benefit (General) Regulations 1987

These regulations provide for matters governing housing benefit appeals (entitlement, amount, claiming and payment).