

Scottish Parliament Region: South of Scotland

Case 200501957: Dumfries and Galloway Council

Summary of Investigation

Category

Local government: Finance; Council tax and housing benefit

Overview

The complaint was made by Mr C on behalf of his adult daughter (Ms C). Mr C raised a number of concerns relating to the handling by Dumfries and Galloway Council (the Council) of Ms C's applications for council tax benefit and housing benefit. The Council accepted that there had been faults in the way they handled Mr C's complaint and the sum of £500 was accepted by him.

Specific complaints and conclusions

The complaints which have been investigated are that the Council:

- (a) provided Ms C with a receipt that her applications for council tax benefit and housing benefit were properly documented but later asked for additional information (*not upheld*);
- (b) subsequently wrongly determined Ms C's applications stating that she had a nil entitlement because she had not completed the requisite forms (*no finding*); and
- (c) delayed unduly in responding to Mr C's letter of complaint of 14 June 2005 to the Chief Executive (*upheld*).

Redress and recommendations

The Ombudsman notes that the sum of £500 has been offered and accepted by Mr C in respect of the delay in handling the formal complaint. She accepts the personal apology tendered to herself and notes that an explanation and apology were given direct to Mr C. Finally she also notes the steps taken by the Council to avoid re-occurrence of their initial misunderstanding which happened in this case.

Main Investigation Report

Introduction

1. The complainant (Mr C) submitted the complaint on behalf of his daughter (Ms C) who has in the past had mental health problems. The complaint concerned the alleged mishandling of applications for housing benefit and council tax benefit and the subsequent undue delay by Dumfries and Galloway Council (the Council) in responding to a formal complaint submitted by Mr C.
2. The complaints from Mr C which I have investigated are that the Council:
 - (a) provided Ms C with a receipt that her applications for council tax benefit and housing benefit were properly documented but later asked for additional information;
 - (b) subsequently wrongly determined Ms C's applications stating that she had a nil entitlement because she had not completed the requisite forms; and
 - (c) delayed unduly in responding to Mr C's letter of complaint of 14 June 2005 to the Chief Executive.

Investigation

3. The investigation was commenced on 27 October 2005, when the Council had not responded substantively to the complaints Mr C had submitted to the Chief Executive of the Council on 14 June 2005 about the matters at paragraphs 2 (a) and 2 (b).

4. Only after issuing my initial draft report to the Council on 28 November 2006 was a response to points (a) and (b) provided. A revised draft was thereafter prepared and both the Council and Mr C have been given the opportunity to comment.

(a) The Council provided Ms C with a receipt that her applications for council tax benefit and housing benefit were properly documented but later asked for additional information

5. Ms C is a tenant of the Dumfries and Galloway Housing Partnership (the Housing Partnership).

6. According to Mr C, his daughter who had previously been ill with depression, suffered a relapse in March 2005. She was signed off by her doctor and took steps to contact The Housing Partnership as her landlord and to inform the Council of her need for a benefits assessment. Ms C had

meetings with Council officials and on 11 April 2005 received a countersigned numbered receipt indicating that her claim was complete and that no further evidence was required of her.

7. The Council have confirmed that Ms C visited their local office on 24 March 2005. She was then receiving statutory sick pay (SSP) and to support her claims for council tax benefit and housing benefit she was asked to provide two forms of proof of identity, two months' bank statements and proof of her income (that is, SSP or claim at the Department of Works and Pensions (DWP)).

8. Ms C revisited the local office on 11 April 2005 and spoke to a member of the Revenues staff (Officer 1). Ms C supplied two forms of proof of identity, two months' bank statements and three payslips dated 25 February 2005, 25 March 2005 and 1 April 2005. At this visit Ms C was provided with the Revenue section's standard receipt which had the box marked 'claim complete' ticked.

9. On 28 April 2005, when a Benefit Assessor (Officer 2) came to determine (calculate) the claim, Officer 2 noted that Ms C was in receipt of earnings up to 1 April 2005. Officer 2 noted from the original receipt that Ms C was in receipt of SSP and issued a letter to Ms C that day (28 April) asking her to provide within seven days, her four weekly payslips from 1 April or a letter confirming her sick pay. This was to enable Officer 2 to determine Ms C's claim using the more appropriate, current, level of income.

10. The Council stated that on the basis of the initial assessment by the member of staff concerned, it had been correct to issue the standard receipt. They accept, however, that the issue of this receipt may have led Ms C to believe that she did not need to take any further action in relation to her claim. The Council accepted that Ms C may have misunderstood or may have been misled by the terminology of the receipt she was given on 11 April 2005. To avoid further misunderstandings they have since made arrangements for the initial assessment receipts to contain an appropriate disclaimer to the effect that the benefit application will be determined within 21 days and that further information/evidence may be required.

(a) Conclusion

11. The ticking of the box on the receipt appears to me to signify that Ms C had, at her visit on 11 April 2005, supplied sufficient documentation in order for her completed claim to go forward to be assessed. That happened within 17 days. I do not consider that the box was ticked incorrectly on 11 April 2005, or that Officer 2 did not properly assess the information when the claim was calculated and determined on 28 April 2005. I am pleased to note, however, that the Council have already taken steps to avoid possible ambiguity in the future by including a disclaimer on the standard receipt form. I do not uphold this complaint.

(b) The Council subsequently wrongly determined Ms C's applications stating that she had a nil entitlement because she had not completed the requisite forms

12. The Council stated that the regulations covering housing benefit/council tax benefit allow claimants up to six weeks from the date of the application to supply required documentation or evidence in support of the claim. They wrote to Ms C on 28 April 2005 asking her to provide within seven days her four weekly payslips from 1 April 2005 or a letter confirming her sick pay.

13. Mr C confirmed that Ms C received a letter from the Council requesting a further pay slip in early May 2005. He stated that he photocopied that payslip and handed it in to the Council's local office. With the permission of Ms C's employer, doctor, and psychiatrist, Mr C and his wife took Ms C on holiday with them at the end of May 2005 in an effort to improve her health. The holiday was fully paid for by Mr C. Ms C stayed with her parents for some twelve days returning to her home in better spirits some four days before her parents.

14. The Council said that they received no response by 2 June 2005 to Officer 2's letter of 28 April 2005. In accordance with the relevant regulations, Officer 2 determined Ms C's claim with the information then to hand. A letter was issued on 2 June 2005 to Ms C to advise her that she had a nil entitlement to housing benefit/council tax benefit on the basis that she had provided insufficient verifiable evidence to support her application. The letter provided details of her appeal rights against the decision.

15. On her return from holiday, Ms C telephoned her parents to say that she had received letters from the Council indicating a nil benefit entitlement on the grounds that she had neither completed the forms nor had she presented

enough supporting paperwork. She also had received a letter from The Housing Partnership detailing substantial rent arrears. Ms C telephoned both the Council and The Housing Partnership to inform them that Mr C would seek to resolve the situation on his return.

16. On his return, Mr C spoke to employees of The Housing Partnership by telephone on 7 June 2005 and he and Ms C visited their office on 10 June. An officer from The Housing Partnership advised Mr C that Ms C should lodge an appeal against the nil benefit determinations. Shortly thereafter Ms C received an intimation of forthcoming recovery of possession action from The Housing Partnership.

17. Mr C stated that the benefit to his daughter of the holiday (for which he had paid some £1000) was lost with the trauma of receiving notification that she was to receive no council tax and housing benefit and The Housing Partnership's threat of action for repossession.

18. On 15 June 2005 the Council's Benefit Section received a letter from Mr C dated 14 June 2005 in response to their letter of 2 June 2005 to Ms C. Attached to the letter were two further payslips for Ms C and a bank statement. Mr C requested that the Finance Department review the housing benefit/council tax benefit claim and backdate the benefit award to Ms C to the original application date. Although that information was received some 47 days after being first requested on 28 April 2005, the Council reinstated and re-assessed Ms C's claim and wrote directly to Ms C on 15 June 2005 to inform her that a new determination would be issued.

(b) Conclusion

19. There is a conflict of information as to whether Mr C supplied in early May the additional information which Officer 2 had requested by letter of 28 April 2005. If it was not received then the Council were entitled to determine the claim on the information they had to hand and to award a nil entitlement. If it was received, then the Council erred in not considering that information in early May 2005 and in awarding housing benefit and council tax benefit. Since I cannot resolve that conflict of evidence, I make no finding on this head of complaint. When information was subsequently provided, Ms C's claims were re-assessed and backdated.

(c) The Council delayed unduly in responding to Mr C's letter of complaint of 14 June 2005 to the Chief Executive

20. Mr C complained to the Chief Executive of the Council on 14 June 2005. He copied his letter to the Convener of the Council, his local councillor, his MP and his MSP.

21. Receipt of Mr C's letter to the Council's Chief Executive was acknowledged by a senior officer in Corporate Services (Officer 3) on 7 July 2005. Officer 3 stated that Mr C's letter had been passed to the Director of Finance who had been asked to review the issues and to reply to Mr C direct.

22. Having heard nothing further, Mr C wrote again to the Chief Executive on 30 August 2005. In that letter he stated that the ongoing situation had worsened his daughter's depression and her employers had decided that she was no longer fit for work which meant that she was about to lose her job.

23. The letter of 30 August 2005 was acknowledged by Officer 3 on 19 September 2005. He apologised for the unacceptable delay in dealing with the matter and stated that he had asked the Director of Finance to advise him as a matter of urgency on Ms C's benefit applications.

24. Despite the active intervention of his MP and local councillor, Mr C was unable to obtain a reply from the Chief Executive of the Council. On 8 October 2005 he sent a second reminder to the Chief Executive stating that a parallel complaint he had made against The Housing Partnership in June had since been dealt with and that he was approaching the Ombudsman's office. Receipt of that letter was acknowledged on 18 October by the Council's Chief Revenues Officer (Officer 4) who headed his letter 'claim reference'. Officer 4 assured Mr C that a response to his letter would be issued in due course. A draft letter of response was prepared on 26 October 2005 for sending to Mr C but was never finalised nor sent.

25. The complaint from Mr C was received in the Ombudsman's office on 18 October 2005. He complained that, despite two reminders, he had not received a response to his letter of 14 June 2005 to the Chief Executive and that the Council had contravened their own complaints policy.

26. Mr C informed me by further letter of 25 October 2005 that his daughter had been successful in respect of the re-determination of her claims for council

tax benefit and housing benefit. She was, however, currently signed off work by her doctor.

27. Despite six written reminders to the Chief Executive and Officer 3 and telephone and other contact on a further eight occasions, I neither received a copy of the Council's response to Mr C's complaint of 14 June 2005 nor a substantive reply to my letter of enquiry of 27 October 2005. On 22 May 2006, Officer 3 informed me that the Council were prepared to pay Mr C £500 to resolve the delay in responding to the initial complaint. A letter of apology with a 'without prejudice' offer of £500 was made to Mr C in July 2006 and was accepted by Mr C in a letter of 24 August 2006.

28. An earlier draft of this report was sent to the Council's Chief Executive on 28 November 2006. In a letter of 27 December 2006, Officer 3 provided me with the Council's response to the earlier draft which incorporated their response to the first two complaints. The delays which occurred in responding to the initial complaint to the Chief Executive of 14 June 2005 and to my enquiry of 27 October 2005 were reviewed by Officer 3's line manager. A personal apology was tendered to the Ombudsman.

29. In his letter to Mr C, Officer 3 noted that Mr C was seeking damages from the Council for the trauma suffered by his daughter and costs incurred in providing her with a holiday which had been ruined. He stated that while the Council fully accepted that there were failures in dealing with his complaint, they were not in a position to accept liability for the costs of the holiday or any trauma allegedly suffered by Ms C particularly since the claims for housing benefit/council tax benefit were dealt with proportionately and benefit was reinstated and backdated when the information requested was supplied.

(c) Conclusion

30. I uphold this complaint but consider it to have been fully remedied by the offer of the 'without prejudice' payment of £500 which Mr C accepted on 24 August 2006, by the belated explanation of the Council's position in respect of the complaint of 14 June 2005, and by the apologies tendered to Mr C on behalf of the Council. If Mr C and his daughter wish to continue to dispute the Council's position at paragraph 29, then ultimately they could pursue the matter in the courts.

31. The Ombudsman notes that the sum of £500 has been offered and accepted by Mr C in respect of the delay in handling the formal complaint. She accepts the personal apology tendered to herself and notes that an explanation and apology were given direct to Mr C. Finally she also notes the steps taken by the Council to avoid re-occurrence of the initial misunderstanding which happened in this case.

22 August 2007

Explanation of abbreviations used

Mr C	The complainant
Ms C	The aggrieved, Mr C's daughter
The Council	Dumfries and Galloway Council
The Housing Partnership	Dumfries and Galloway Housing Partnership
SSP	Statutory sick pay
DWP	Department of Works and Pensions
Officer 1	Officer in the local office who first dealt with Ms C's housing benefit and council tax benefit claim on 11 April 2005
Officer 2	Benefit Assessor who determined the claim for housing benefit/council tax benefit on 28 April 2005
Officer 3	A senior officer in the Council's Corporate Services
Officer 4	The Council's Chief Revenues Officer, Financial Services