

## Scottish Parliament Region: West of Scotland

### Case 200502814: East Dunbartonshire Council

#### Summary of Investigation

##### **Category**

Local government: Council Tax

##### **Overview**

The complainant, Ms C, complained that her client, Mr A, was treated unfairly in the way his Council Tax arrears were pursued.

##### **Specific complaints and conclusions**

The complaints which have been investigated are that:

- (a) it was not reasonable to pursue Mr A's Council Tax arrears after six years without notification (*not upheld*); and
- (b) the Council failed to link Mr A's old account to his new one, thus making it difficult to pursue his arrears (*not upheld*).

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

The Ombudsman has no recommendations to make in this case.

## **Main Investigation Report**

### **Introduction**

1. On 13 January 2006, Ms C, an adviser at a Citizen's Advice Bureau (CAB), wrote to the Ombudsman on behalf of her client, Mr A. She complained that Mr A had been unfairly treated in the way East Dunbartonshire Council (the Council) had pursued an arrears of Council tax which he had incurred while a tenant in the Council's area. Ms C complained that the time elapsed before pursuing an arrears relating to a brief tenancy was such that it was very difficult for Mr A to prove the duration of that tenancy and, therefore, the amount of unpaid Council Tax for which he was liable.

2. Ms C first contacted the Council's Council Tax office in relation to this matter on 11 July 2005 and her manager further pursued the issues in a letter to the Council's Chief Executive on 22 July 2005. After further exchanges of letters, Ms C informed the Council that she intended to refer this case to the Ombudsman and, although the formal complaints procedure had not been invoked, I decided to investigate it because of the time elapsed and because Ms C was not made aware by the authority of their procedure for making a formal complaint.

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

- (a) it was not reasonable to pursue Mr A's Council Tax arrears after six years without notification; and
- (b) the Council failed to link Mr A's old account to his new one, thus making it difficult to pursue his arrears.

### **Investigation**

4. As part of my investigation, I reviewed correspondence between Ms C and the Council, correspondence from the Council and their debt recovery agents with Mr A and evidence of Mr A's tenancy and residence at the address to which his arrears related (Address 1). I made inquiry of the Council on 16 November 2006 and received a response on 22 December. I received further information on 1 February 2006, which related to the tenancy of Address 1.

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

### *Background*

6. Mr A was the tenant of a privately rented property in the Council's area (Address 1) from 1 August 1998. A letter from his landlords to the Council of 11 August 1998 confirms this date. He then purchased a house (Address 2) within the same Council area. I have been provided with a letter from Mr A's solicitors of 20 October 1998 which included a qualified acceptance of his offer for this property. Mr A stated that he was resident at Address 2 from the end of October 1998 and on 2 February 2005, he provided documentary evidence to the Council to support this. The Council provided a letter which shows that a new tenant took up residence at Address 1 on 2 August 1999. Mr A now lives in a different Council area.

7. The Council's debt recovery agents sent a final demand for Council Tax arrears of £1549.30 to Mr A on 13 December 2004. Mr A has stated that this was the first time the alleged arrears were brought to his attention by the Council's agents. These arrears related to Address 1 and were for the periods August 1998 - March 1999 (£1005.14) and April 1999 - July 1999 (£544.16). Mr A disputed these arrears first with the debt recovery agents and then with the Council. He took steps to try to prove the duration of his tenancy and residence at Address 1.

#### **(a) It was not reasonable to pursue Mr A's Council Tax arrears after six years without notification**

8. In her letter to the Council of 11 July 2005, Ms C claimed that it was not reasonable to pursue Mr A's arrears six years after the debt was incurred and that the Council had delayed in issuing the bill. This, she said, denied Mr A the opportunity to contest the debt and she drew comparisons with a similar case in which it had been established that another council had failed to issue a bill as soon as reasonably practical. In that case, the debt was written off and Ms C asked that the Council do the same with Mr A's debt.

9. In a reply dated 14 July 2005, the Council advised that bills, reminders, final notices and summary warrants for the two financial years for which he was liable were sent to Mr A at Address 1 between 27 August 1998 and 9 October 2000. In a further letter of 12 December 2005, the Council noted that bills had not been delayed, but issued timeously and that no mail had been returned from Address 1. In their letter of 19 October 2005, the Council also underlined their statutory duty to collect unpaid taxes. Mr A states that he did

not receive the correspondence sent to Address 1 after he vacated that property.

*(a) Conclusion*

10. The Council was entitled to pursue the Council Tax debt relating to Address 1 and, indeed, had a statutory duty to do so. The Council did take steps to notify Mr A of his liability based on the information they had at the time (see paragraph 13). I do not, therefore, uphold this complaint.

**(b) The Council failed to link Mr A's old account to his new one, thus making it difficult to pursue his arrears**

11. Although the Council sent demand letters to Mr A at Address 1, Ms C complained that they should have been aware of his new address, Address 2 because he was paying Council Tax at that address. Mr A supplied a Council Tax bill sent to him at Address 2 on 10 October 2000 for the period beginning 1 April 2000. In her letter of 11 July 2005, Ms C said that, had they corresponded with Mr A at Address 2, he would have been in a better position to supply proof of the duration of his tenancy at address 1.

12. In a further letter from the CAB on 22 July 2005, Ms C's manager noted that residents in other local authority areas are asked to give the Council their previous address when they move properties so that their Council Tax accounts can be linked. She asked why this was not done in Mr A's case.

13. In their letter of 19 October 2005, the Council confirmed that they link accounts in this way. In their submission to the Ombudsman's office on 2 December 2006, they further explained that this can only be done when it is certain that the taxpayer in question is the same person. After my further inquiry in April 2007, the Council informed this office that it was the solicitor of the previous owners of Address 2 who informed them that Mr A was now resident there. They then changed their records and issued a bill for Council Tax relating to Address 2 in Mr A's name. The Council advised me that, had Mr A notified them of his new address as he was obliged to do, they would have taken steps to ascertain his previous address and, in this way, link his previous account to his new one. The Council supplied me with a copy of the Council Tax documentation that would have been available to Mr A at the time. His payment booklet contained a form to be used when notifying the Council of a change of circumstances. This clearly asks for the tax payer's previous and new addresses.

14. The correspondence that I have seen shows that Mr A took significant trouble to establish the duration of his tenancy as soon as he was made aware of his debt. He was not able to establish this with certainty as his former landlord was no longer in business and could not be traced. He did not dispute the date his tenancy began, and although the evidence referred to above (paragraph 7) provides the latest possible date for end of that tenancy, Mr A has always maintained that his tenancy ended when he moved to Address 2. He claims that, if the Council had contacted him earlier, he would have been able to supply proof of the conclusion of his tenancy.

15. The Council, in their letter to the CAB of 19 October 2005, argued that the absence of an application for an empty exemption by the landlord once Mr A vacated Address 1 meant that Mr A was liable for that period. However, this is not conclusive proof that Mr A was still the tenant from the beginning of November 1998 to the end of July 1999.

16. Because it is not possible to ascertain whether Mr A's tenancy terminated before the end of July 1999 as he claims, his liability for Council Tax up to that point cannot be contested. The Council has, however, advised Mr A of the possibility of a discount for the period when he was not resident at Address 1 if he can supply evidence of his residence elsewhere.

*(b) Conclusion*

17. It is clear that the Council did not link Mr A's accounts relating to Addresses 1 and 2 and it is likely that the failure to link accounts contributed significantly to the delay in pursuing Mr A's arrears. This put Mr A at a disadvantage when he was seeking to contest the demand for his outstanding Council Tax by making it more difficult for him to demonstrate the duration of his tenancy at the time when the arrears were eventually pursued. However, the Council has provided a reasonable explanation of how this came about and, had Mr A notified the Council of his change of circumstances in line with his obligations, it is probable that the accounts would have been linked. In this circumstances, I do not uphold this complaint.

22 August 2007

**Explanation of abbreviations used**

Ms C	The complainant, an adviser at a Citizen's Advice Bureau
Mr A	The aggrieved
CAB	Citizen's Advice Bureau
The Council	East Dunbartonshire Council
Address 1	The address to which Mr A's arrears relate
Address 2	The address where Mr A move to in the same Council area.