

## Scottish Parliament Region: West of Scotland

### Case 200601420: East Dunbartonshire Council

#### Summary of Investigation

##### **Category**

Local government: Housing; Applications, allocations, transfers and exchanges

##### **Overview**

Mr C, a housing advice officer, complained on behalf of Ms A. Ms A had five children and had been in private rented accommodation. She had been on the list for housing with East Dunbartonshire Council (the Council) for some years when she was assessed as unintentionally homeless in September 2004. Thereafter, Ms A was in temporary Council-owned accommodation until September 2005, when she returned to private rented accommodation. Ms A also returned to the general housing list at this time. Mr C complained about a number of aspects of the Council's handling of Ms A's application for housing, including: the standard of temporary accommodation; the Council's decision that Ms A's refusal of permanent accommodation was unreasonable; changes in the Council's allocation policy, which he said disadvantaged Ms A; and the refusal to grant Ms A additional social points once she had returned to the general list. Mr C was also concerned about the way her complaints had been handled and about the way the Council had dealt with Ms A's application for a Discretionary Housing Payment (DHP).

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

The complaints which have been investigated are that:

- (a) the Council mishandled Ms A's application for housing, following her assessment as unintentionally homeless (*partially upheld*);
- (b) the Council did not respond adequately to Ms A's concerns about this (*upheld*); and
- (c) the Council mishandled Ms A's application for a DHP (*not upheld*).

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

The Ombudsman recommends that the Council:

- (i) provide her with a copy of the results of the review of the inventory documentation;

- (ii) ensure staff who are involved in the award of discretionary social points are aware of the comments in this report;
- (iii) ensure that all staff dealing with complaints know how to process these effectively;
- (iv) review guidance given to staff on recording contact with members of the public to ensure that all significant contact is recorded;
- (v) apologise to Mr C for their failure to respond to his letter of 1 July 2005;  
and
- (vi) apologise to Ms A for the failures in their complaint handling.

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

## **Main Investigation Report**

### **Introduction**

1. Mr C, a housing advice officer, complained on behalf of Ms A. Ms A, who had five children and had been living in private rented accommodation, made a homeless application to East Dunbartonshire Council (the Council) in September 2004. She was assessed as a priority. She was given emergency accommodation in October 2004 but said the property was unsuitable as it was only two-bedroomed and unclean. After six months, she was moved to another property. On 22 April 2005 Ms A was then offered permanent accommodation but refused this on a number of grounds, including the fact that it was close to a former partner who had been violent and against whom she had had to obtain an interdict. Her appeal that this was a reasonable refusal was rejected by the Council and she was informed that she would be evicted from her temporary accommodation. Ms A also tried to arrange to exchange the property she had been offered for another Council tenancy but was told by the Council this was not possible and that the tenant she wished to exchange with was not allowed to exchange their tenancy. However, the Council tenant later successfully arranged an exchange of tenancy with another Council tenant. Ms A moved into private accommodation in September 2005 and applied for and was awarded a Discretionary Housing Payment (DHP) to help with the rent.

2. In September 2005, the Council wrote to everyone on their housing lists saying that there had been changes to the allocations policy. Shortly after this, Ms A was informed she had 10 points. She was approximately 60<sup>th</sup> on the general housing list. In January 2006, having told the Council that one of her children (Child A) was having to stay with his father because of problems caused by overcrowding, Ms A was awarded 20 additional points. As a result, she moved up the waiting list. In response to representations from Ms A's MP, the Council agreed to consider if she qualified for discretionary social points under their allocation policy. They decided that she did not. In June 2006 Ms A met with the Council to further discuss her concerns. On 4 August 2006 Ms A was told that her DHP would not continue. On 8 August 2006 the Chief Executive wrote to Ms A in response to her formal complaint to say that the case had been reviewed and she had been unable to identify any issues of maladministration.

3. On 16 August 2006 Mr C complained to the Ombudsman and asked that the Council's handling of Ms A's application for housing be reviewed.

4. The complaints from Mr C which I have investigated are that:
- (a) the Council mishandled Ms A's application for housing, following her assessment as unintentionally homeless;
  - (b) the Council did not respond adequately to Ms A's concerns about this; and
  - (c) the Council mishandled Ms A's application for a Discretionary Housing Payment.

### **Investigation**

5. In investigating the complaint I obtained and reviewed copies of correspondence between the Council and Ms A, Mr C, Ms A's MP and Ms A's solicitors (the Solicitor). I also made a detailed enquiry of the Council and considered relevant legislation and guidance.

6. 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 Council were given an opportunity to comment on a draft of this report.

### *Legislative background*

7. The Housing (Scotland) Act 2001 (the 2001 Act) requires local authorities to provide temporary accommodation to any homeless person who applies to them for accommodation. If they are then assessed as unintentionally homeless and having a priority need, they have a right to be offered permanent accommodation.

8. In 2005 the Scottish Executive<sup>1</sup> issued a guidance note setting out good practice standards for local authorities dealing with homeless applications. This guidance said that, if permanent accommodation was not available, local authorities could use temporary accommodation but should move the applicant as soon as possible. It also stated that local authorities' duty to secure accommodation for unintentionally homeless people in priority need could be fulfilled by one offer of accommodation if that offer was reasonable.

9. The 2001 Act also deals with general applications for local authority housing. These sections of the 2001 Act require local authorities to give 'reasonable preference' to applicants who are occupying overcrowded houses,

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<sup>1</sup> On 3 September 2007 Scottish Ministers formally adopted the title Scottish Government to replace the term Scottish Executive. The latter term is used in this report as it applied at the time of the events to which the report relates.

have large families or are living in unsatisfactory housing conditions. The 2001 Act specifies factors that should not be taken into account, including the length of time an individual had resided in the area. However, guidance was issued by the Scottish Executive on this aspect of the 2001 Act in 2002. This guidance said that the legislation did not restrict authorities from taking other factors into account and that local authorities were not prevented completely from taking into account time spent on the waiting list. This could be used to determine priority between two households with similar levels of need.

10. The Discretionary Financial Assistance Regulations 2001 regulate DHP schemes. Discretionary payments can be made where an individual is in receipt of housing and/or council tax benefit but the benefit does not meet the rent or council tax charge in full and the individual is having difficulty paying this shortfall. The Regulations give local authorities wide discretion in the operation of these schemes. Regulation 7 says that a person making a claim will provide the authority with information on the grounds of the claim, any relevant changes in circumstances and 'such other information as may be specified by the relevant authority within such time as the authority thinks appropriate'. The authority is given a duty to provide an applicant with written reasons for any decision made as soon as is reasonably practicable. Regulation 3 makes it clear that assistance should not be given if the need for financial assistance arises from a liability to meet council tax and alternative council tax benefit is payable.

**(a) The Council mishandled Ms A's application for housing and (b) the Council did not respond adequately to her concerns about this**

11. The Council's housing allocation policy placed applicants into three groups. Group A was classed as those with urgent needs and included those who were homeless. They were held in date order. Group B were general applicants who were assessed and given points in line with the allocation policy. Applicants with the same points were then held in date order. Group C were applicants with special needs and require adapted accommodation. Group C were also held in point and then date order<sup>2</sup>.

12. Following difficulties with her private landlord, Ms A was assessed as having a homeless priority in September 2004 and placed in Group A. On

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<sup>2</sup> In 2007 the Council introduced a fourth category Group D for applicants not residing in the area with no special social, medical, support or employment reason for moving to the area.

10 October 2004 Ms A signed a temporary Council tenancy agreement for property X. This was a three-apartment property (with two bedrooms) and the Council have said that this was an emergency measure. Ms A said that property X was filthy and in poor condition. At a meeting in property X a housing officer noted that the carpet was damp as it had recently been cleaned. The inventory noted that certain household items were required and these were ordered. In March 2005 Ms A signed an agreement for a second temporary Council tenancy in property Y, which was four-apartment and had three bedrooms. The Council have said that this was the first such property to become available. Ms A again complained about the condition of this property. The documents completed after Ms A left both properties showed that the flats required cleaning and a number of repairs. In response to my queries the Council said they felt the booking in and booking out inventory list did not give a: 'terribly clear indication of the condition at entry' and that they would be looking at this in the future.

13. In April 2005 Ms A was offered permanent accommodation of property Z, a five-apartment property (see paragraph 1) in area M. Ms A contacted the Council and tried to arrange an exchange of property Z with another Council tenancy in area L but was told that this would not be possible (see paragraph 1). Ms A then refused the offer of property Z. Mr C wrote to the Council on her behalf, arguing that this should be accepted by them as a reasonable refusal. He noted that Ms A's refusal of a previous offer of a property in 2002 in this area, had been accepted as reasonable. Mr C said Ms A had been having difficulties with an ex-partner who lived in area M and an interdict had been raised against him. Mr C said that there were also positive reasons for Ms A to be housed near her mother in area L: Ms A's mother provided additional support for her; the move to property Z would require the children to move school, property Z was too small and the bedrooms would be overcrowded. Ms A supported her grandparents, who were also in area L. Mr C added that there were particular concerns that it would not be suitable for one of Ms A's children (Child A) and that more information about this would come from Child A's social worker. A social worker involved with the family wrote to the Head of Housing on 9 June 2005. This letter repeated Ms A's concerns that the property was not suitable for Child A and her concerns over the distance from her mother and grandparents. It did not, however, clearly state that the social worker supported the refusal.

14. On 24 June 2005, the Head of Housing wrote to Mr C to inform him that the appeal had been refused. He said he considered that if Ms A wished to remain within town D she would likely remain at risk from her ex-partner and not only within area M. He also noted that, in discussions with a housing officer about property Z, Ms A had not raised this concern. The letter added that the other reasons had been considered but he was of the opinion that the property was a suitable size, within reasonable proximity to Ms A's family and met health and safety standards.

15. I obtained further details of the offer made in 2002 (see paragraph 13) which Ms A refused. This offer had been for an upper flat and a social worker had written in support of Ms A's concerns the upper flat would be unsuitable for Child A. The social worker also cited the likely need for Child A to change schools. An application was subsequently made for medical priority to be awarded because of the concerns raised about Child A. A letter on file dated 13 June 2005 to a councillor confirmed that this had been considered and refused following an independent assessment<sup>3</sup>.

16. In response to my enquires, the Council said that the offer of property Z was similar to the offer made to Ms A in 2002. The Council had reviewed her refusal of property Z, taking into account the circumstances at the time. They said that, although Ms A was of the view that the property was unsuitable for Child A, professional evidence did not support this contention. They noted that the distance to Ms A's mother was 1.9 miles and both Ms A and her mother owned cars.<sup>4</sup>

17. Mr C wrote on 1 July 2005 asking that the decision be reviewed, on the grounds it did not refer to the points raised in the appeal. The Council have said they have no record of a response to this letter but consider that response was made to these concerns in correspondence with Ms A's solicitor (see paragraph 18)

18. Between July 2005 and the completion of the complaints procedure in August 2006, Ms A's concerns were pursued by a solicitor (the Solicitor) acting

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<sup>3</sup> In September 2005 a housing officer wrote to Ms A's solicitor saying that a recent request for medical points for Child A had been refused.

<sup>4</sup> Ms A said in response to a draft of the report that at the time of the refusal her mother did not own a car. This was not given as a reason at the time of the refusal by the Council.

on her behalf and her MP. In summary, they repeated the concerns raised by Mr C and also raised the following issues: Ms A's claims that five-apartment properties had been let to family units smaller than hers; her place on the list; whether, if she did receive medical points for Child A, this would reduce her choice of properties; why housing benefit would not cover the rent for private rented accommodation;<sup>5</sup> why the Council would not award Ms A any of the discretionary social points available in their allocation policy; Ms A's concerns about the Council's refusal to allow her to exchange property Z for a suitable one in area L, even though the tenant in area L had been happy to do so, and that she had received conflicting reasons for this refusal.

19. While this correspondence was ongoing, there were a number of changes in Ms A's situation. The first of these was that Ms A formally ended her tenancy of property Y on 2 September 2005 and she moved into private rented accommodation. Ms A had been informed that, following her refusal of property Z and the decision that this had not been a reasonable refusal, a notice to quit property Y was due 'imminently'. As a result of this move, Ms A returned to Group B in the housing list.

20. On 19 September 2005 a standard letter was sent to Ms A informing her of the changes to the allocation policy. The Council had changed their points system on 22 August 2005 in response to changes in legislation and guidance (see paragraphs 7 to 9).

21. This letter asked all applicants to confirm they wished to remain on the list and to correct any information. Ms A did so and confirmed again that she wished to be considered for only certain areas. Under the new system, Ms A was given 10 points for overcrowding and was at that time approximately 60<sup>th</sup> on the list.

22. On 9 November 2005, the Solicitor informed the Council that Child A was now living with his father and had had to move schools. She inquired about separation points. In a letter of 1 December 2005<sup>6</sup> the Solicitor was told Ms A would need to provide evidence before she could receive separation points and Ms A did so on 7 December 2005. Ms A's application was updated on

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<sup>5</sup> In response to this query Ms A was advised to apply for DHP. This application is dealt with from paragraph 37 onwards.

<sup>6</sup> This was in response to the Solicitor raising this query a second time in a letter of 21 November 2005.



1 January 2006 to include 20 points for the separation. Ms A moved to roughly 46<sup>th</sup> on the list. On 22 February 2006 the MP provided copies of letters from the family's social worker and a public health worker. They both said that Ms A's current housing was unsuitable and that Ms A and her children required permanent accommodation. On 28 April Ms A had a meeting with a housing officer to inform them that the child who had been living with his father had returned. This was again causing difficulties. An enquiry form noted that the additional points for separation were removed.

23. In responses to the correspondence from the Solicitor and the MP, letters were sent by a Senior Housing Officer (Officer 1), the Head of Housing and the Corporate Director - Community (the Corporate Director). An internal report on the Council's handling was prepared in January 2006 and Ms A was considered for discretionary social points in March and May 2006. However, she was not considered to be eligible for those points under the Council's policy. I have had sight of these documents and note that the report dealing with social points refers to two refusals by Ms A of accommodation offers considered to be reasonable. This is despite the fact that the first offer was considered a reasonable refusal.

24. In June 2006 Ms A met with the Corporate Director and the Housing Services Manager to discuss her concerns. The Corporate Director wrote to her on 13 June 2006 to say he had reviewed the application in full. He concluded that, while the Housing Service had sympathy for her situation, her application had been handled appropriately. The Corporate Director said that the housing situation in the Council area was difficult and Ms A was not alone in experiencing difficulties. It was unlikely her position would improve in a short space of time. Ms A was informed that since 2003 only five suitable houses had come up in the area she had requested and that this greatly reduced the likelihood of an offer of housing being made.

25. The Corporate Director went on to say that in reviewing the file it was noted a number of staff had given advice and this may have led to some 'different interpretations of advice being given'. Ms A was told that in future the Housing Services Manager would ensure that one or two members of staff would deal with her enquiries. The letter concluded by stating that, as Ms A had said she wished to complete the complaints procedure and bring her concerns to the Ombudsman's office, the matter had already been passed for review to the Chief Executive. On 20 July, Mr C asked about this response and the Chief

Executive wrote to Mr C on 8 August 2006. The letter referred to extensive discussions with the service and said that the Chief Executive had identified no evidence of maladministration. She said the Corporate Director would regularly review Ms A's situation and ensure she had one point of contact.

*(a) Conclusion*

26. It is not disputed that Ms A experienced overcrowding throughout the period of time considered in this report and that she and her children required permanent accommodation. The Council regret they have not been able to provide this and say this is because of a shortage of suitable Council housing stock available. I have also seen evidence, which I can not include in this report for reasons of confidentiality, which has reassured me that the problems which prevented an exchange when Ms A was offered property Z were resolved by the time an exchange was arranged between Council tenants.<sup>7</sup> In reviewing their handling of Ms A's application I have considered a number of points and will deal with these in turn.

27. On the question of the suitability of the temporary accommodation, the Council had to house Ms A and her family as an emergency and did move her to larger accommodation when possible. I do not criticise them for this. However, they have said that their standard documentation did not give a terribly clear indication of the review of the condition of the flats on entry and, having considered these documents, I feel that it is not possible to say whether the properties were or were not in a suitable condition. The Council have said that they will review this documentation. This decision was only made after Mr C brought the complaint to this office and, on this basis, I have upheld this aspect of the complaint on the grounds that the Council's own procedures did not provide them with a clear record of the state of the properties on the date of entry.

28. The process of the application itself is more complex. The change in allocation policy followed a change in legislation and guidance and Ms A was not more disadvantaged than any other applicant on the list. In general, the Council assessed and processed her points appropriately. However, I am concerned that the report on social points referred to Ms A's refusal of suitable accommodation on two occasions. Ms A's refusal of the first property was accepted as reasonable and, therefore, was not considered to have been made.

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<sup>7</sup> The question of apparent inconsistencies in the reasons given for this are dealt with under conclusion (b).

Nevertheless, the report does also state that Ms A's points had been considered on the basis of housing need and it contained details of other families on the list who had significant housing needs. The Council's policy is that social points are discretionary and should only be awarded when the situation is exceptional. Ms A's position was clearly described in the report as not unique. Therefore, while I am critical that the reference to the refusals did not provide a fuller explanation that one of the refusal had been considered reasonable, it appears that the decision not to award Ms A social points was in line with this policy.

29. I have considered the Council's decision that Ms A's refusal to accept property Z was unreasonable. The Council were right to consider this in isolation from the previous refusal. I consider that their letter of 24 June 2005 and their response to my enquiries (see paragraph 14) show that they did take into account all the factors raised. I have noted that, although a number of professionals have agreed that this family require permanent accommodation and some indicated Ms A's preference for a specific area, no report or letter unequivocally supported Ms A's contention that she required to live in area L and could not live in area M. Child A had also been assessed for and not awarded medical priority points since the first refusal.

30. In conclusion, I am partially upholding this complaint on the basis of my concerns that the reports dealing with Ms A's application for social points wrongly referred to her refusal to accept a tenancy when this had been accepted as a reasonable refusal and the inability of the Council to demonstrate the temporary housing offered was of an adequate standard.

*(a) Recommendations*

31. The Ombudsman recommends that the Council:

- (i) provide her with a copy of the results of the review of the inventory documentation; and
- (ii) ensure staff who are involved in the award of discretionary social points are aware of the comments in this report.

*(b) Conclusion*

32. The Council have accepted that problems may have been caused by Ms A having several points of contact with them and sought to resolve this before this complaint came to the Ombudsman's office. I would commend them for this.

33. However, I am concerned about the recording of contact that occurred. The Council have said that general enquiries are not recorded. There are records on file which show that notes are taken when the person receiving the enquiry feels that the matter is of some importance. I have noted that the return of Child A to live with Ms A was recorded. However, the advice given around the exchange was clearly significant but was not recorded and it is not, therefore, possible to make any finding on its adequacy (see paragraphs 1 and 13). There was no record, as accepted above, of the details of her concerns about the condition of the temporary accommodation provided. While I would not wish to overburden housing officers, I am asking the Council to review guidance given to staff on this matter and the Ombudsman recommends that, where advice is given or information received on specific matters, these should be recorded.

34. I have also noted that no response was given to Mr C following the decision to refuse the appeal against the Council's decision that Ms A's refusal of property Z was not reasonable. The Council have said the response was contained in letters to the Solicitor but Mr C should at least have received an acknowledgement or an explanation to this effect. I am also concerned that Ms A was in correspondence, via Mr C, with the Solicitor and her MP for several months and this was only progressed through the complaints procedure at her request. While I do not wish to encourage the escalation of complaints unnecessarily, it should have been clear that Ms A remained concerned and a final response from the Council on their position could have been made earlier in the process. For example, I have noted that correspondence on the same point occurred with more than one member of staff and this should have been noted and progressed. I have also noted that correspondence on the same point occurred with the same member of staff, eg, the Solicitor was never told by Officer 1 how to escalate her concerns, when it was clear that Ms A remained unhappy with the answers she was receiving and despite the Solicitor clearly repeating her concerns. I was also concerned that Officer 1 was twice asked about separation points before informing the Solicitor how Ms A should apply for these.

35. I, therefore, uphold this complaint on the basis of the failure to record significant advice given to Ms A; to acknowledge and respond to Mr C's letter of 1 July 2005; and to appropriately respond to and manage the complaints made on Ms A's behalf.

*(b) Recommendations*

36. The Ombudsman recommends that the Council:

- (i) ensure that all staff dealing with complaints know how to process these effectively;
- (ii) review guidance given to staff on recording contact with members of the public to ensure that all significant contact is recorded;
- (iii) apologise to Mr C for their failure to respond to his letter of 1 July 2005; and
- (iv) apologise to Ms A for the failures in their complaint handling.

**(c) The Council mishandled Ms A's application for a DHP**

37. Ms A applied for DHP on 31 August 2005 after she was advised that housing benefit would not cover the rent for the private property she wished to let. She provided information about her income and outgoings in a standard form provided by the Council. The shortfall between the benefit and the rent was small and the Council initially re-referred the rent to the rent officer. They also asked Ms A to provide details of the 'other' expenditure she had listed on the form. She wrote to them on 12 October 2005 with more details. In December 2005 Ms A was awarded a DHP from September 2005 to March 2006. This amounted to half of the difference between the housing benefit and the rent. On 23 February 2006 Mr C wrote requesting that this be extended and again provided a list of income and outgoings. As Child A was not living with her at this time, her income and child support had reduced. On 28 February 2006 Ms A was told that her DHP would be extended again for a further six months from March 2006.

38. On 31 July 2006 Ms A wrote to ask for a second extension. On 4 August 2006 the Council wrote to say this had been refused as, on the information provided, Ms A's 'weekly outgoings on essential housing costs do no [sic] exceed your income'. Mr C wrote on her behalf on 13 August 2006 and a meeting was held on 11 September 2006. Mr C was present at this meeting. A brief note of this meeting by a Council officer said that Ms A had been told how DHP worked and that she would need documentary evidence for some of the 'excessive' areas of expenditure.

39. In the interim, the Council agreed to provide DHP. The Council wrote to Ms A to say that a payment would be made direct to her landlord for the next eight weeks and she would also have DHP backdated to 8 August. Payment would thus be made until the end of October 2006. The Council also noted that

Ms A had not been paying council tax and had agreed to do so at a certain rate per week. The letter continued: 'Failure to maintain this level of payment will seriously impact upon my ability to award any further discretionary payment to you'. Ms A was said to have agreed to meet a money adviser with the Citizens Advice Bureau. A further meeting was set for 23 October 2006 and Ms A was asked to bring up to date information on her income and expenditure to that meeting.

40. The meeting was held on 27 October 2006 and a letter sent to Ms A on 30 October 2006. This requested a number of documents. Ms A was told that DHP would continue for a further four weeks but that this was conditional on payment of £10 per week for her council tax arrears. Ms A was asked to provide the information by 20 November 2006 and a follow-up meeting was held on 23 November. Mr C wrote to the Council on 2 November 2006. He said that Ms A had been previously informed that, on the receipt of certain documents, a final decision would be made. These had been provided on 27 October 2006 and he queried the additional information being sought. They had initially said they did not need the car registration number on petrol receipts and now said they did. Mr C was also unsure that the Council could make payment of DHP dependent on payment of council tax.

41. In their response of 8 November 2006 to Mr C, the Council said the information provided by Ms A had varied and they were trying to gain an accurate picture. They said they understood that Ms A had agreed to pay a weekly amount towards council tax on 11 September 2006 for the period for which she received DHP. Some clarification was provided for the specific receipts the Council required.

42. Ms A discussed DHP with the Council by telephone on 27 November 2006. The Council sent her a letter of the same date. This said all the information had been input to a spreadsheet to work out a weekly average and unfortunately DHP would cease from 27 November 2006. This is because income was still exceeding outgoings in the Council's calculations. Ms A was informed that her DHP would cease. She was also told the Council would be happy to meet to discuss her calculations and she could re-apply. She would, however, need to supply statements and bills as well as receipts if she did so. The letter also dealt with Ms A's council tax.

43. In response to specific enquiries about the link made between payment to Ms A of DHP and council tax owing to them, the Council explained that Ms A had included council tax as an item of expenditure. All applicants of DHP had to provide evidence that the expenditure claimed in the application was genuine. At the meeting on 11 September 2006 (see paragraph 38) they said that it was explained to Mr C and Ms A that the amount of council tax she was claiming as part of her regular expenditure was significant as, if she was not paying this (either not paying or in receipt of benefit to cover this amount), her expenditure would reduce to a level where she would not be eligible for DHP. The Council were aware that she was in arrears. They said that Ms A did in fact make council tax payments and DHP was paid on the basis of the income and expenditure provided on an interim basis until the expenditure could be assessed.

44. The Council said they did so because they had been told by Mr C and Ms A at the meeting that she had not kept receipts for a number of items of expenditure listed and they had asked her to keep these in future and this was why the review in October was arranged. They said that, ultimately, the receipts provided did not provide evidence of expenditure at a sufficient level to make Ms A eligible for DHP.

*(c) Conclusion*

45. The Regulations provided the Council with wide discretion around the award of DHPs. Ms A was repeatedly asked for further information concerning her application for DHP but each time she was asked for this she was given clear reasons. Regulation 3 provides a broad discretion for this. Mr C queried whether the award could be made conditional on council tax but I am satisfied by the Council's explanation that as Ms A had included this as an item of expenditure they required to ensure it was genuine expenditure, particularly given that the decision to award DHP was finely balanced. I have noted Regulation 7 made it clear that council tax could be relevant expenditure for DHP. Ms A had been given clear reasons for the refusal and the opportunity to re-apply or to make further enquiries. I was concerned the file note of the meeting on September 2006 did not make the discussion on the council tax clear and the response in November 2006 did not fully clarify the position. However, the Ombudsman has already made recommendations on recording notes and complaint handling. In the circumstances, I do not uphold this complaint and the Ombudsman has no recommendations to make.

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

24 October 2007



**Explanation of abbreviations used**

Mr C	The complainant – a housing advice officer
Ms A	The aggrieved
The Council	East Dunbartonshire Council
DHP	Discretionary Housing Payment
Child A	One of Ms A's children
The Solicitor	Solicitor representing Ms A
The 2001 Act	Housing (Scotland) Act 2001
Officer 1	Senior housing officer who corresponded with the Solicitor
The Corporate Director	The Council's Corporate Director – Community

**List of legislation and policies considered**

The Housing (Scotland) Act 2001

The Discretionary Financial Assistance Regulations 2001

Scottish Executive Code of Guidance on Homelessness

SEDD Circular 1/2002 The Housing (Scotland) Act 2001 Housing lists and allocations

East Dunbartonshire Council's Allocations Policy