

SPSO decision report

Case: 201300504, The Moray Council
Sector: local government
Subject: local housing allowance and council tax benefit
Outcome: upheld, recommendations

Summary

After his partner died, Mr C notified the council of this change in his circumstances. He complained to us that it was then discovered that there had been an error in the handling of his benefit claims, which meant that for over a year he had been in receipt of a payment that he was not due. When he brought his complaint to us, the council had investigated the matter, and we were satisfied that this had been undertaken fully, so we decided reinvestigation of the circumstances behind the error was not required. However, Mr C told us that he was still unhappy because he believed he missed out on the opportunity to apply for a discretionary housing payment and of receiving council tax benefit for a period of four months, and because he had received a number of notices from the council with different information about what he owed.

When the council investigated Mr C's complaint, they upheld it and found that a longstanding error in recording had resulted in him receiving an overpayment of benefit. They had apologised to him for this, and had said that they would not ask him to repay the benefit paid in error. The council also told him that they would improve their processes and procedures to prevent a repeat.

Our investigation found that, despite this, Mr C had received notice shortly afterwards that his rent account was in arrears and that the council were asking him to repay an overpayment of council tax benefit from the date that the Department of Works and Pensions (DWP) told them of a further change in his benefit entitlement.

When we investigated, we found the situation very confusing and we were not surprised that Mr C had been similarly affected. We established that he had not missed out on a discretionary housing payment, as he had feared, because the rent arrears he had were not due to council error but a more recent change in his benefit entitlement, but we found that the council had failed to consider his request for this. We also found that it was unreasonable, having written off the overpayment of benefit for rent up to the end of the financial year, that he was being pursued for an overpayment of council tax benefit for this period, when it was the council's error that had affected his benefit.

Recommendations

We recommended that the council:

- should cancel or write off the council tax arrears for 2012/2013 on Mr C's account;
- write to Mr C with a clear, simply set out explanation of how his rent and council tax accounts currently stand, and of any arrears and how these are made up;
- write to the DWP confirming that the error in Mr C's benefit claim arose on the council's part and was not attributable to him in any way; and
- make him a payment as a goodwill gesture to reflect that they failed to meet a reasonable standard of service.
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