

SPSO decision report



Case: 202104243, Midlothian Council
Sector: Local Government
Subject: Policy / administration
Decision: some upheld, recommendations

Summary

C is an advocate for and representative of A. C complained that a social worker acting on behalf of the council failed to timeously apply for state benefits on A's behalf despite providing an undertaking to do so. C complained that this failure led to a loss of income for A resulting in rent and council tax arrears and that the council subsequently sought direct deductions from A's state benefits to pay for these council tax and rent arrears. C further complained that the council failed to adequately communicate with A and their representatives. Finally, C complained that the council failed to adequately investigate or respond to the complaint. The council did not consider that there was any failure to apply for and manage A's state benefits.

Upon investigation, we found that there was an appointment of a social worker to undertake the application for state benefits on A's behalf. However, we found that there was a delay by the council in submitting an appointee application form. We found that A experienced an actual loss of income as a result. We also found that the council unreasonably sought direct deductions from A's state benefits for council tax and rent arrears caused by these delays. We therefore upheld these aspects of the complaint.

Whilst we did not uphold the aspect of C's complaint that the council failed to communicate adequately with A, we found that the council failed to adequately investigate and respond to their complaint. We upheld this aspect of the complaint.

Recommendations

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What we asked the organisation to do in this case:

- Apologise to A for the delay in progressing A's application for state benefits and for unreasonably seeking direct deductions from their state benefits to recover rent and council tax arrears. The apology should meet the standards set out in the SPSO guidelines on apology available at www.spsso.org.uk/information-leaflets.
- Either; 1. calculate the amount of Universal Credit (considering each component allowance) and council tax reduction that A lost out on due to their delays and reimburse A for any shortfall of Universal Credit, rent and council tax reduction (taking into account of the discretionary housing payment already made). Or 2. agree a settlement payment with A through their representative C.

What we said should change to put things right in future:

- Where the council undertakes to apply for benefits on behalf of an individual, this should be progressed promptly in order to ensure that entitlement to benefit is not lost. Deductions from benefits should not normally be sought when arrears have been caused by the council's inaction.

We have asked the organisation to provide us with evidence that they have implemented the recommendations we have made on this case by the deadline we set.