

Scottish Parliament Region: South of Scotland

Case 200501297: Dumfries and Galloway Council

Introduction

1. On 3 October 2005 the Ombudsman received a complaint from Mr C about the way in which Dumfries and Galloway Council (the Council) dealt with his council tax review.

2. The complaints from Mr C which I have investigated concerned:

- (a) the tone of Council correspondence;
- (b) failure to offer him the assistance of a Benefits Assessor;
- (c) failure to return an item of property;
- (d) failure to adhere to an agreement made by telephone.

3. Following the investigation of all aspects of this complaint, I came to the following conclusions:

- (a) not upheld, see paragraph 13;
- (b) partially upheld, see paragraph 15;
- (c) no finding, see paragraph 16;
- (d) not upheld, see paragraph 19.

4. A specific recommendation that the Ombudsman is making resulting from this investigation is that the Council should:

clarify the role of the Benefits Assessor and make it more widely known to the public.

5. The Council have accepted this recommendation and will take appropriate action. They are to be commended for this.

Investigation and findings of fact

6. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr C and the Council. I have also seen internal benefit receipts for documentation lodged by Mr C in association with his review; copies of various internal telephone memos; a copy of the Council's complaints procedure; and the Council's corporate plan (2003 - 2007). I made a detailed enquiry of the Council on 18 October 2005 and requested further information on 20 December 2005 and 1 February 2006. The Council's associated responses were dated 1 December 2005, 10 January and 25 February 2006.

7. I have set out below my findings of fact and conclusions for each head of complaint. I have not included every detail investigated in this report but I am satisfied that no matter of significance has been overlooked. Mr C and the Council have been given an opportunity to comment on a draft of this report.

(a) The tone of Council correspondence

8. Mr C said that the Council sought information from him when his claim for council tax benefit was being reviewed but he complained that the tone of the correspondence was unnecessarily intimidatory with unreasonable deadlines. He said that this caused both him and his wife undue stress.

9. I am aware from my enquiries of the Council that, on 1 August 2005, Mr C was issued with a postal intervention form as he had been identified in a routine monthly scan provided by the Housing Benefit Matching Service (HBMS), which is an external department for the Work and Pensions agency, as a case requiring review. Mr C completed the intervention form and handed it in to the Council's Stranraer One-Stop-Shop on 3 August 2005. A number of accompanying documents were copied to validate the information he gave on his form.

10. On 11 August 2005, the Council said that they made enquiries using the Department for Work and Pensions (DWP) remote access terminal to confirm DWP benefits in payment for Mr C and his partner and learned of the existence of a bank account of which they had not previously been advised. The Council also said further investigations found the existence of a variety of private pensions held between Mr C and his partner, which had increased since 2002, and about which they had not been informed. As a consequence, an enquiry

letter was sent to Mr C that same day.

11. Mr C disputed that the Council were unaware of the existence of this bank account, particularly when they had been successfully collecting his monthly council tax debits since September 2004. While the Council did not dispute this, they said that there was no notification to the Council's Benefits Section. They said that, for reasons of data protection, the Council does not cross reference council tax direct debit details with benefit records and that the onus was on Mr C to advise the benefits authority of the existence of the bank account.

12. Similarly, the Council said that the regulations governing benefits clearly stated that it was the responsibility of a claimant to notify the Council of changes in income. They said that they were not in a position to assume pension increases even though Mr C maintained that, as the Council must have been aware of the existence of these pensions which were reviewed annually, they must have been aware of the increases.

(a) The tone of Council correspondence: Conclusions

13. Mr C was unhappy with the tone of the letter seeking information from him and the fact that he was requested to provide the relevant information within seven days. I have seen a copy of this letter and, while it requests a number of separate pieces of information, in my view it does so politely and clearly. A seven day deadline was given, with a warning that a delay may result in the benefit claim being withdrawn, but this was followed by an invitation to call the writer of the letter in the event that further information or assistance was needed. In the circumstances, I cannot agree with Mr C. As the benefits section did not have all the information they needed to determine Mr C's claim, under the appropriate regulations they were entitled to seek it directly from him with a standard deadline. Mr C may have been put to some trouble to collate what was required but it was to his advantage to do so. If he had felt pressured as a consequence, the Council said it was open to him to get back to them. However, in replying to my enquiries they have indicated that they intend to review the standard letter wording on this point to make it a clearer invitation. Taking all this into account, I do not uphold this aspect of the complaint.

(b) Failure to offer him the assistance of a Benefits Assessor

14. Mr C further complained that he was never offered the assistance of a Benefits Assessor to help him deal with his review and the Council have

confirmed that, for vulnerable or disabled persons, they provide a home based enquiry service. However, for general queries they have a network of local offices, one of which is in the One-Stop-Shop office in Stranraer where Mr C took his paperwork for onward transmission to the Council. Mr C says that if he had had access to such a home service it would have been likely that his complaint could have been resolved without confrontation and dispute. While the Council said that their home based service is an 'income maximisation' service to promote benefit take up, they said that this is separate from an 'intervention' service which is there to confirm ongoing entitlement to benefit.

(b) Failure to offer him the assistance of a Benefits Assessor: Conclusions

15. Although the Council maintained that a Benefits Assessor would not have been appropriate for Mr C, I am not entirely clear about the role of the Benefits Assessor from the documentation provided by the Council. In the circumstances, the Ombudsman recommends that the Council clarify the role and make it more clearly known to members of the public. However, I do not consider that Mr C can claim continuing injustice as a consequence of this situation as he was not seeking advice on 'income maximisation' and I only partly uphold his complaint.

(c) Failure to return an item of property

16. The item concerned is a plastic wallet. Mr C says it was not returned to him along with papers he sent to the Council. The Council have no record of receiving this but have confirmed to me that it will be replaced. In the circumstances, I consider that this part of Mr C's complaint will be remedied and I would not be justified in pursuing the matter further. I therefore make no finding on this aspect of the matter.

(d) Failure to adhere to an agreement made by telephone

17. Mr C said that, shortly after 2 September 2005, he made an agreement by telephone that his arrears for 2003-2004 and 2004-2005 would be added to his repayments, in order to reduce the impact on his bank account. However, he complained that this agreement was never acknowledged or confirmed and that a payment of £25.24 was deducted from his bank account. He said that this could cause him to go into overdraft and incur bank charges.

18. The Council provided me with copies of nine telephone memos detailing calls between Mr C and Council officers during the period 15 August to 21 November 2005. They said that they document all calls relating to benefit

enquiries as standard practice and that staff have specific instructions to record details of any special arrangements entered into. However, there is no record of such an arrangement with Mr C. A call is noted on 5 September 2005, the first working day after Mr C said he received letters detailing his council tax arrears. While it is on record that Mr C queried the fact that the amounts due would be taken from his account, he was advised that the money would not be collected until 15 October 2005. There was no record of an alternative payment agreement being reached. His next recorded call dated 17 October 2005 noted that £25.24 (his arrears for 2004-2005) had been taken from his account. In this connection, the Council told me that if they had received a request from Mr C to incorporate his arrears totalling £38.80 into his repayment plan, it is likely that, because of the relatively small sum involved, a written response would probably have been sent in the negative. The Council said that there is a threshold below which it is not value for money to incorporate a sum into a repayment plan and the sum owed by Mr C was well below that level.

d) Failure to adhere to an agreement made by telephone: Conclusions

19. Despite the fact that Mr C maintains that he reached an agreement with the Council about his arrears, I have been unable to obtain evidence to support this. Whether or not he called again on or around 5 September 2005 and the call was not recorded, I do not know but the Council have said that in Mr C's circumstances they would have been unlikely to have entered into such an agreement. On the balance of probabilities therefore, I do not uphold this aspect of the complaint.

20. As noted in paragraph 5, the Council have accepted the Ombudsman's recommendations made as a consequence of the findings in paragraph 15.

30 May 2006

Explanation of abbreviations used

Mr C	The complainant
The Council	Dumfries and Galloway Council
HBMS	Housing Benefit Matching Service
DWP	Department for Work and Pensions