

Case 200501822: The City of Edinburgh Council

Introduction

1. On 5 October 2005 the Ombudsman received a complaint from Mr C alleging that The City of Edinburgh Council (the Council) failed to handle properly his representations about his council tax. He said that this placed him in a difficult financial position.

2. Mr C was aggrieved at the Council's general failure to deal with his calls and correspondence in a timely manner. He said that this resulted in onerous financial requirements being placed upon him and he was further aggrieved that his specific request, for council tax for the year 2004-2005 to be waived, was ignored.

3. The complaints from Mr C which I have investigated concerned the Council's:

- (a) failure to send him anything except an advice note about the forthcoming year's council tax, despite him twice telephoning requesting the relevant forms and advising the Council of the changes to the occupancy of his flat;
- (b) failure to provide anything other than a demand notice, despite the complainant's letter of 28 March 2005;
- (c) failure to provide a timely reply to Mr C's letter of 1 July 2005; and
- (d) failure to respond to Mr C's specific request.

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

- (a) not upheld, see paragraph 17;
- (b) not upheld, see paragraph 18;

(c) not upheld , see paragraph 19;

(d) not upheld, see paragraph 20.

Investigation and findings of fact

5. Mr C said that, despite telephoning twice in 2004 (on 27 August and in October), requesting appropriate forms and advising the Council of changes in the occupancy of his flat, they failed to send him anything except an advice note concerning the forthcoming year's council tax. The complainant said that he contacted the Council again, in writing on 28 March 2005, saying that he expected a 25% discount for a six week period, followed by the full bill for the remaining six months of the financial year and subsequent years. However, he complained that the next correspondence he received from the Council was in the form of a demand notice requiring him to immediately pay £847.92 in respect of council tax for 2004-2005 and then six monthly instalments of £246.00 for the 2005-2006 year.

6. Mr C said that he considered this action unduly onerous, given his efforts to progress matters and keep the Council advised about the flat's occupancy. He, therefore, suggested to the Council that they waive the amount due for 2004-2005 and that he pay his current year's council tax in ten instalments. He was concerned that the situation had arisen in the first place. As this letter had failed to receive a response by 2 August 2005, Mr C wrote to the Council's Chief Executive for confirmation that his concerns were being investigated. A reply apologising was sent to him on 5 August 2005 by the Chief Executive's Business Manager. Mr C was assured that he would receive a response in the shortest possible time.

7. On 10 August 2005, an officer wrote to Mr C, saying that she had received his recent correspondence which had been forwarded to her by the Chief Executive's Office and she was replying on behalf of the Revenues and Benefits Manager. She confirmed that the first correspondence the Council had received from him arrived in the department on 5 April 2005 but that, due to the volume of work associated with the annual billing for council tax, it was not dealt with until over two months later. She apologised for any inconvenience and agreed to consider any reasonable proposals Mr C cared to make in respect of his outstanding council tax. By reply of 29 August, Mr C subsequently agreed to extend his payments for the

year 2005-2006 but took the view that, despite his efforts, as the Council had not informed him of his council tax liability until the end of June 2005, the amount due should be written off. He asked that the Council consider his request.

8. The investigation began in October 2005, when I made a written enquiry of the Council. I was advised that before the end of the previous October (2004) paper files were used for each customer, but there were no records of any telephone contact from Mr C for the months in question. I was told that this was unusual as staff were instructed to deal with telephone calls immediately and note the action taken. I established that there were two ways in which Mr C could have made contact, either directly to the processing team or via an automated service. If it were the latter, then a record of the call would be on the file with the system provider but there was no record of such a contact. As already mentioned, there was no record of a call coming in directly to the processing team.

9. The Council said that the first record they had of any communication from Mr C was his letter of 28 March 2005, which they received on 5 April 2005. They explained that, regrettably, this letter was not dealt with until 22 June 2005 because of the annual billing of council tax payers at the start of the financial year, which was done during a four week period over February and March. Although arrangements were made to relocate work between different groups of staff, they were simultaneously dealing with a number of recovery documents for 2003-2004 which were issued at the same time. The Council said that it was not usual to issue such recovery documents (about 55,000) so close to the annual billing, but on this occasion their issue had been delayed as a result of the migration of all council tax records to a new computer system. They felt that any further delay in their issue could have caused further difficulties, as council tax payers would have had to wait longer to be reminded about unpaid accounts going back some years. However, the consequences were that staff were dealing with huge amounts of mail which, despite the relocation of tasks and overtime being worked, led to an unavoidable delay.

10. As Mr C also complained that his letter of 1 July 2005 failed to receive a reply. He wrote to the Chief Executive on 2 August 2005 complaining and the Chief Executive's Business Manager then asked the Director of Finance to ensure that the correspondence was reviewed and received a speedy reply.

11. A letter was sent on behalf of the Revenues and Benefits Manager on 10 August 2005, referring to recent correspondence and explaining the reasons for the delay in replying to his letter of 28 March 2005. The letter apologised for the delay. It also went on to detail the amount of council tax Mr C was due to pay for 2004-2005 and said that any reasonable proposal for payment would be considered. It said that it was also possible to extend his payments for 2005-2006 until March 2006 and asked Mr C to contact the writer to discuss a repayment plan or any further enquiries he may have. He was asked to use the bar code attached to ensure a speedy response and this request was written in bold.

12. In response, Mr C replied to the Head of Revenues and Benefits (not to the writer of the letter) on 29 August 2005 accepting the offer concerning the payments for 2005-2006, but saying that because of the way the Council had dealt with his representations, he wanted his council tax for 2004-2005 written off. He requested a reply within ten working days.

13. In their reply to me, the Council said that their letter of 10 August 2005, while not specifically stating that it was responding to individually dated items of correspondence, did state that it was dealing with correspondence which had been referred to Revenues and Benefits by the Chief Executive. I note this and also that the letter referred to his correspondence received on 5 April 2005 (that is, his letter of 28 March 2005). Although there was no specific mention of Mr C's letter of 1 July 2005, reference was made to 'recent correspondence'.

14. The Council also contended that, if Mr C had replied to the writer of their letter of 10 August 2005 using the bar code as he was invited, his letter of 29 August 2005 would have been fast tracked. Instead, the letter went into the system as general correspondence. They further stated that, as Mr C was invited to discuss a repayment plan for 2004-2005, they had made it clear that the account could not be written off.

15. Because Mr C did not receive a reply from the Head of Revenues and Benefits within the time limit he had requested, he wrote complaining to the Chief Executive. In reply, by letter of 11 October 2005, the Chief Executive said that while he was disappointed that Mr C had not received a reply from the Head of

Revenues, he had instructed that Mr C's records for council tax year 2004-2005 be amended to reflect the repayment agreement which had been offered. Nevertheless, he did not consider it reasonable to write off the debt. He further emphasised that the Council would consider any reasonable proposal for repayment of 2004-2005.

16. For each of the four heads of complaint I have set out my conclusions and, while I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Mr C and the Council have also been given an opportunity to comment on a draft of this report.

(a) Failure to send Mr C anything except an advice note about the forthcoming year's council tax, despite him twice telephoning requesting the relevant forms and advising the Council of the changes to the occupancy of his flat

17. Records have been checked, including paper files, and there are no records of Mr C having telephoned. Similarly, the automated service system providers had no record of a telephone call from him. However, Mr C contended that he called twice and he has since provided his telephone records which show that he called the Council's main switchboard just before 8.30am (opening time) on 27 August 2004 for a period of less than 90 seconds. There is, therefore, no doubt that this call was made, even though the Council have no record of it. Mr C said that his name and address were taken and he was told that relevant forms would be sent. However, the Council advised me that the switchboard would have been unable to deal with the call; details would have been taken and transferred to the Council Tax Department, where the process would require to have been repeated, this time including his council tax number. To retrieve a customer account number, a search would be necessary on either a name or address. Given the circumstances of the time and duration of the call, I am unable to conclude what happened with this call, particularly as I am aware of the Council's standing instructions to staff in the Council Tax Department as to how to respond and record calls. Therefore, on balance, I cannot uphold a complaint against the Council on this basis. There is no record of a second call and, accordingly, I cannot criticise the Council for failing to take action on it.

(b) Failure to provide anything other than a demand notice, despite the complainant's letter of 28 March 2005

18. Mr C's letter of 28 March 2005 did not receive a reply until 10 August 2005, at which time he was given an explanation and an apology. While it would have been preferable for a response or at least an acknowledgement to be sent sooner, I take the view that the explanation was a reasonable one in the circumstances described and the Council have already made an apology for the delay. As I do not think that Mr C can claim any continuing injustice, I do not uphold this complaint.

(c) Failure to provide a timely reply to Mr C's letter of 1 July 2005

19. It was clearly the intention of the Chief Executive's Business Manager that the Council's response of 10 August 2005 was to cover Mr C's letter of 1 July 2005, and that letter refers to his recent correspondence. This being so, I do not uphold this complaint.

(d) Failure to respond to Mr C's specific request for council tax for the year 2004-2005 to be waived

20. In the Council's letter of 10 August 2005, Mr C was asked to respond to the writer using an attached bar code. He did not do so and, instead of his letter requesting a waiver for his council tax being fast tracked, it went into the general correspondence. This caused a delay. However, with regard to his request, the Council had already responded by offering to consider a repayment plan (see paragraphs 14 and 15). The Chief Executive further emphasised in his letter of 11 October 2005 that it would not be reasonable for Mr C to expect a waiver. I cannot, therefore, uphold Mr C's complaint that the Council failed to respond on this score. However, it is my view that when council tax payers make similar requests for a waiver, an explicit reply should be sent.

27 June 2006

Explanation of abbreviations used

Mr C

The complainant

The Council

The City of Edinburgh Council