

Section H: Local taxation

H1: Community charge

Failure of a council to deal correctly with community charge billing and community charge benefit – failure to answer correspondence – the issue of an unjustified summons

1. Mrs Brown alleged that there was fault in a council's handling of her community charge account in that:
 - it delayed unreasonably in sending her a correct bill for 1991/92 and 1992/93; and
 - it failed to respond to all her letters and queries.
2. Mrs Brown moved into the borough in January 1992. At that time she was receiving income support and on 15 January the council's benefits division received confirmation of that from the Department of Social Security. A form to claim housing benefit and community charge benefit was then sent to Mrs Brown, which she completed and delivered by hand to the benefits division on 23 January. So far so good. But it then took just over two years for the council to produce a correct bill. In the meantime the council issued a number of incorrect bills and Mrs Brown put a great deal of time and effort into trying to assist the council. Nevertheless all this culminated in a summons.
3. The Ombudsman commented:

“Before setting out my conclusion I wish to acknowledge the difficulties faced by the council in implementing the community charge and community charge benefit schemes. Many local authorities experienced technical and administrative problems in dealing with the new schemes and the substantial workload generated by them. Here, officers were working under extreme pressure, and the computer support which was available was in no way ideal. Nonetheless, the council was responsible for conducting its business in a reasonable way.”
4. The Ombudsman found that there were the following failings in the way the council dealt with Mrs Brown:
 - there was a failure in inter-departmental liaison which led to a delay from January until July 1992 in sending Mrs Brown a community charge registration form;
 - incorrect notifications of Mrs Brown's liability for both the 1991/92 and 1992/93 community charge were issued on 1 August 1992;
 - when she queried the absence of community charge benefit the council responded by sending amended bills to the wrong address;
 - once she had returned the wrongly addressed bills she sought advice on how to make payments, but officers provided no suitable response to her letter;
 - after the council had corrected the address, apologised to Mrs Brown, confirmed her entitlement to community charge benefit, and promised that correct bills would be sent, it then sent bills which did not include her entitlement to community charge benefit on two occasions;
 - for a full year after January 1993 the council failed to address Mrs Brown's concerns and credit her account with community charge benefit;
 - by April 1993, Mrs Brown had still not received a correct bill and she wrote three times to complain to the director of finance but there was a failure to reply to any of those letters; and

- the issue of arrears notices in 1993 and a summons in January 1994 were based on inadequate consideration of her circumstances.
5. "These failings," the Ombudsman concluded, "were maladministration which caused injustice to Mrs Brown. She was caused frustration and worry, and went to much avoidable effort to get the council to do things properly. She also received a summons and felt it necessary to take time off work to satisfy herself that the court case had been withdrawn."
 6. To remedy the injustice the council was recommended to pay Mrs Brown £350, together with a further £250 for the time and trouble she took in pursuing the complaint with the council and with the Ombudsman.

(Report 93/A/3849)

H2: Debt collection

The importance of having adequate procedures to check information before a bailiff's visit

1. Mrs Alcott complained that a bailiff acting on behalf of a council called at her address by mistake to collect unpaid community charge. As a result, Mrs Alcott said she had to take a day off work to contact the bailiffs to seek an explanation as to why they had called and to ask them to cancel a further planned visit to seize goods. Mrs Alcott also said she and her husband suffered stress as a result of the visit.
2. Mrs Alcott did not owe the council any community charge. In fact she had previously received a refund of £79.09 from the council for overpaid community charge.
3. She telephoned the council and was told that responsibility for the debt had been passed to the bailiffs. Mrs Alcott claimed she was given no details of the amount she owed and how the debt had accrued. Mrs Alcott said she then telephoned the bailiffs and was simply told she owed money. Once again, Mrs Alcott claimed she received no detailed information. She also said she had received no written notification beforehand from either the council or the bailiffs about the debt or the intended visit.
4. It emerged that the bailiffs were attempting to collect a debt from a different Mrs Alcott who used to live in the same town as the complainant. The bailiffs had used a tracing agency, in accordance with their normal practice, to try to obtain the correct Mrs Alcott's new address. It is clear from the council's files that other cases of mistaken identity had been experienced before that of Mrs Alcott came to light.

5. The Ombudsman said that the bailiffs were acting as agents for the council and, therefore, the council should accept responsibility for the mistake and any injustice it might have caused. He commented:

“The bailiffs claimed to be acting under the authority of a liability order granted by the court against Mrs Alcott. But this was not the case, for they had found the wrong Mrs Alcott. I accept that the use of tracing agents is normal practice. But it seems to me that more care should have been taken to ascertain that the right person had been identified before a bailiff turned up on the doorstep with an authority to seize goods. This was not an isolated error and in my view, the failure to check the information provided by means of some preliminary contact in writing, by telephone, or by visit amounts to maladministration.”

6. The Ombudsman welcomed the fact that the council and bailiffs had now introduced steps to achieve this: specifically, by writing to debtors

before any visit. The failure to have such a procedure in place earlier meant that the complainants were caused injustice by way of anxiety, distress and inconvenience.

7. The council argued that the visit resulted from a genuine mistake and no further action was taken by the bailiffs once the mistake was discovered. The council believed that the apology which had already been made was the appropriate remedy. The Ombudsman did not agree. He recommended that the council should pay Mrs Alcott £100 to remedy her injustice and as compensation for the time and trouble she had in pursuing her complaint with the council and with him.

(Report 96/B/451)

H3: Debt collection

Unreasonable use of bailiffs to collect a debt when a benefit claim was outstanding

1. The Ombudsman criticised a council for the action it took about a couple's community charge account.
2. There were a number of mistakes and delays in dealing with their claims for housing benefit and community charge benefit. The council issued the couple with a court summons for a full community charge of £299 each. Their true liability at the time, taking into account payments they had made and their correct benefit entitlement was, in fact, £54 each. The Ombudsman saw no evidence that the council considered properly whether the court action should proceed, taking account of all the circumstances. He commented on the action of the council in instructing bailiffs:

"The council passed Mr and Mrs Nandsingh's account to the bailiffs ... when there were benefit claims outstanding Bailiffs have draconian powers. It was not reasonable for the council to allow these powers to be exercised to collect a debt that was likely to be reduced by the council's own debt to the charge payer. The bailiffs demanded that Mr and Mrs Nandsingh pay over £700 or their possessions would be removed and sold, yet after full benefit was credited to the accounts, Mr and Mrs Nandsingh's liability was just over £100 plus costs What is more, the charges for the levy of distress are based on the amount of the debt at the time of the levy. Mr and Mrs Nandsingh's debts were higher than they should have been because benefit had not been paid. So Mr and Mrs Nandsingh paid fees to the bailiffs which included an element to cover unpaid benefit. In effect, then, they had to pay the bailiffs for the council's own delays."

3. After the couple had been paid their full benefit entitlement, it was clear that their payments were not enough to cover their residual liability, but the Ombudsman thought that they could not reasonably have been expected to know that at the time. He had no reason to suppose that they would not have paid promptly if the council had asked them for the correct amount.
4. The Ombudsman was glad that the council was reconsidering its practice of using bailiffs to enforce a liability order when it was aware that a benefit claim was outstanding. He concluded:

"Clearly, the council must take steps to ensure that taxpayers pay the sums that are properly due. It seems to me unfair, however, that the council should use bailiffs with all their attendant powers to collect sums which are probably not due. The council should put in place procedures to ensure that any outstanding benefit claims are resolved before bailiffs are instructed to collect a debt."

(Report 93/A/2097)