

Section E: Housing benefit

E1: Benefit administration

Delays and errors in dealing with benefit claims – faults in the administration of the review process

1. Mr Wilson complained that a council did not deal properly with his claim for housing and council tax benefit.
 2. Mr Wilson and his partner were private tenants. Until December 1995 they had periods on income support alternating with short-term, part-time jobs. From December 1995 they ran a small business. Mr Wilson complained that the council took too long to deal with his benefit claims and made a variety of mistakes. He said that, as a result, he and his partner suffered financial hardship, they had to pay additional bank charges, and their business was put at risk.
- Mr Wilson's February 1997 claim was not assessed until June 1997; and
 - the council failed to tell Mr Wilson that he could appeal against a determination not to backdate his claim, and a determination that the eligible rent should not be increased.

Overpayments

4. The council became very confused about the overpayments on Mr Wilson's claim; for example:
 - it did not offset overpayments against additional benefit entitlement subsequently awarded for the same period, so Mr Wilson was paid more than maximum benefit; and
 - it told Mr Wilson that it would recover a previous overpayment that it had decided not to recover.

Benefit claims

3. The Ombudsman recognised that Mr Wilson's claims, particularly when he became self-employed, were not straightforward. But that did not excuse the council's repeated mistakes and delays:
 - Mr Wilson made a claim for benefit from May 1995. Later that year he asked for benefit to be backdated to March 1995. The council failed to consider whether he had good cause for not making a claim until May 1995;
 - in January 1996 Mr Wilson asked the council to review the deductions from his benefit for service charges. The council dropped the deductions altogether by mistake, and then reinstated them at the wrong rate. The charges were amended in July, but the council forgot to change the first two months of the claim;
 - Mr Wilson's council tax benefit from August 1996 was not paid until October 1997;

Reviews

5. There was delay and confusion in the way the council dealt with Mr Wilson's request for reviews of its decision about his benefit. Claimants have statutory rights to have determinations about their housing benefit reviewed, first by council officers and second by way of an appeal to a review board comprising council members.
6. The council inserted an additional stage into this process which was its own internal 'officer review board'. After the decision of the officer review board, Mr Wilson was expected to make a further request for a housing benefit review board. The council said that officers needed to consider new information that Mr Wilson had

provided. The Ombudsman recognised that this was reasonable so that any mistakes could be corrected with a minimum of fuss. But the Ombudsman said that this should not be at the expense of denying the claimant's right to put any further dispute before a properly constituted review board without delay.

7. The council said that it did not treat Mr Wilson's letter of appeal as a request for a review board because his letter did not cite a specific period and his reasons for appealing. The Ombudsman said that if the council considered the request to be defective it should have told Mr Wilson promptly. It was not acceptable that he received no reply to his letter for more than six months.
8. Because the determination was amended as a result of a later review, the council decided that Mr Wilson had to go back to the start of the review process if he did not agree with the revision. He was still not allowed to go before a review board. So, more than a year after a request for a review board to be convened, Mr Wilson found himself back at square one. The Ombudsman commented:

"It cannot be right that if a determination is amended at the first stage of the review process, claimants are denied the opportunity to take any outstanding grievance to a review board."

Injustice

9. Mr Wilson was put to much time, frustration and trouble at a time when he and his partner wanted to put all

their energies into making a success of their new business. Payment of the full amount of benefit was delayed, which caused him financial difficulties. The Ombudsman was not surprised that Mr Wilson eventually gave up using the appeal process. The Ombudsman recommended compensation of £250. This took account of the fact that the council had decided not to recover various overpayments of benefit, and Mr Wilson had been paid almost £600 more than if he had been paid maximum housing benefit for the whole of the period.

Procedures

10. The Ombudsman commented:

"This investigation has illustrated clearly what can go wrong if claims for housing benefit are not dealt with in full compliance with the housing benefit regulations. The appeals process, in particular, is a vital safeguard for claimants."

11. The Ombudsman recommended that the council should review its arrangements to ensure that:
 - if its officer review board made no changes to the disputed determination, the appeal was put promptly, and with no further effort on the claimant's part, to the housing benefit review board; and
 - if its officer review board changed the determination but the claimant still disagreed, the issue was decided without delay by a housing benefit review board.

(Report 96/A/3916)

E2: Benefit administration

Delays and errors in dealing with benefit claims – incorrect recovery action on rent and council tax accounts

1. Mrs Hall complained that a council did not deal properly with her claims for housing, community charge and council tax benefit, and with the administration of her rent, community charge and council tax accounts. She said the problems with the administration of her benefit claims left her owing rent and council tax that she had difficulty paying. The council took court proceedings against her. She said that she had to take out a loan to clear her council tax account and was afraid she would lose her home.

Benefit administration

2. The Ombudsman found that there were delays in assessing and paying benefit on Mrs Hall's claims. For some periods her benefit payments were incorrect. For others she was paid no benefit at all.
3. Examples included one year when she was receiving income support but her housing benefit claim was not paid for 12 months. The next year, when she was again receiving income support, her housing benefit claim was not paid for 11 months.
4. Overpayments on her account were not dealt with properly. Overpayments were recovered without consideration of whether they were recoverable under the regulations and, if so, whether they should in fact be recovered. Mrs Hall was not notified of the council's decisions or told of her right to appeal as the regulations required.

Council tax administration

5. The delays in determining Mrs Hall's benefit meant that she did not know

how much council tax to pay and debts accrued on her accounts.

6. There was no evidence that the council had told Mrs Hall that if she made an approach about a suitable repayment arrangement, an affordable repayment arrangement would be made. The Ombudsman said:

"I do not accept that when the council fails to pay benefit properly, the onus should be solely on the taxpayer, who may well be frightened by large bills and confused about the benefit position, to work out what to do about the outstanding debts."

7. The Ombudsman was not convinced that, when Mrs Hall did approach the council, she received a fair hearing. There was no evidence that the council considered her circumstances, her ability to pay, or the long delay in paying benefit, when it decided that she must pay the outstanding sum in three instalments.

Rent account administration

8. There were a number of failings in the way the council administered Mrs Hall's rent account. For example:
 - the council issued a notice of seeking possession of her property but, before that, no final notice was sent to her, contrary to the council's own procedure. Neither was there any check of the benefit position prior to the issue of the notice of seeking possession;
 - the council was wrong to issue a notice of seeking possession when Mrs Hall was paying more than the agreed amount of the arrears: mounting arrears were due to the council's failure

to process her benefit claim, rather than any fault on Mrs Hall's part;

- no notes were made of an interview with Mrs Hall; and
- the council sent Mrs Hall a letter saying that as long as the benefit claim was sorted out and Mrs Hall carried on paying rent as agreed, no further action would be taken. But the council did not honour this undertaking.

Injustice

9. The Ombudsman said that Mrs Hall did what she could to pay her rent and council tax debts, and to get the council to resolve her benefit claims. Because she was on a low income, it was all the more important that she should be given prompt and accurate information about what she owed in order to manage her affairs. The council's failure to provide this meant that she had the worry of large debts mounting up which were out of her control, and the threat of being taken to court for unpaid council tax and having her home repossessed.

10. The Ombudsman recommended that the council should pay Mrs Hall compensation of £1,000 and waive the recovery costs on her council tax account.

Procedures

11. The Ombudsman recognised that the council had taken a number of steps to ensure that the problems experienced by Mrs Hall did not recur, particularly through reorganisation of the benefit service, and new procedures and training for dealing with overpayments

of benefit. But the Ombudsman was not convinced the council's rent recovery procedure was all that it should be. The council was recommended to ensure that it kept accurate records of the action taken, and that officers were aware of, and followed, the procedures. The Ombudsman said:

"I do not consider it fair or reasonable to issue a notice of seeking possession when arrears are caused by the council's failure to pay benefit rather than any failure by the tenant."

12. The Ombudsman also recommended that the council should look again at its arrangements for the recovery of council tax when there had been long delays in paying benefit. If the taxpayer could not have known of his or her residual liability, the council should make clear when the finalised bill was sent that an affordable arrangement could be made for clearing the debt. It should expressly encourage the taxpayer to get in touch so that such an arrangement could be made. The Ombudsman said:

"It is not sufficient, where the debt has arisen because of the council's own failures, to demand a lump sum and leave it to the initiative of the taxpayer to suggest an arrangement."

13. The Ombudsman said in conclusion:

"The council has a duty to collect the rent and council tax that is owed. But, in my view, the council also has a duty to ensure that tenants and taxpayers do not suffer as a result of its own inability to determine claims promptly."

(Report 95/A/4841)

E3: Benefit administration

Private sub-tenant renting a room from a council tenant – confusion over eligibility for benefit – delay in determining claims

1. For some two-and-a-half years Mr Hamilton rented a room in a council flat. He claimed housing benefit during two periods of unemployment. He complained that there was fault in the council's handling of his claims.
5. The Ombudsman said that the question whether Mr Hamilton was Mr Scott's lodger or whether the council was willing to consent to Mr Hamilton being Mr Scott's sub-tenant was not relevant to the determination of Mr Hamilton's housing benefit claim. This was clear from the council's own benefits manual. The Ombudsman could therefore see no justification for suspending determination of the claim while the question of whether Mr Hamilton was a lodger or could be permitted to be a sub-tenant was considered. The Ombudsman found that the council misdirected itself about the application of the housing benefit regulations and this was maladministration. It was also maladministration to fail to issue any notice of determination of the claim or to inform Mr Hamilton of his right of appeal.

The renting arrangement

2. Mr Hamilton rented the room from a former work colleague, Mr Scott. Mr Scott had rent arrears and needed to take in a lodger or sub-tenant to help him pay his rent. His previous sub-tenant had successfully claimed housing benefit.
3. Mr Hamilton first made a claim for housing benefit in September 1994. A housing estate management officer was involved in discussions with Mr Scott about his rent arrears. He also became involved in discussion about the housing benefit claim by Mr Hamilton. There was uncertainty about whether Mr Hamilton was a lodger, which would not have required the council's permission, or a sub-tenant, which would have required permission.
4. The officer advised Mr Scott to make his own housing benefit claim. Mr Scott understood that as a full-time student he was unlikely to be entitled to housing benefit but believed that following the officer's advice was the only way to get Mr Hamilton's claim considered. The council issued no determination notice either to Mr Scott or to Mr Hamilton at this stage. But the housing estate management officer wrote to Mr Scott to say that, following discussion with staff in the benefits section, he did not believe Mr Scott would be eligible for housing benefit.
6. The housing benefit claim submitted by Mr Scott was confusing. But the Ombudsman did not believe that he would have made such a claim if the council had dealt properly with Mr Hamilton's claim. In any event, the council did not make reasonable enquiries about why Mr Scott had made the claim and filled it in inaccurately. This too was maladministration. The Ombudsman thought that if the council had made proper enquiries, the confusion could have been cleared up satisfactorily without delay.

Appeal

7. In August 1995, Mr Hamilton wrote to the council expressing dissatisfaction that he had received no housing benefit. Although no formal determination of his claim of September 1994 had ever been notified to him, and hence no

formal right of appeal had been established, the Ombudsman concluded that it was reasonable to expect the council to have regarded the letter as an appeal. The council did not do so. In fact, the council did not even reply to Mr Hamilton. He subsequently sent three further letters, and the council did not reply to those either. A further opportunity to determine the claim was missed.

Further claim

8. Mr Hamilton made a further claim, in respect of the second period of unemployment, in June 1996. The council determined it in July 1997, over a year later. Part of that delay was attributable to Mr Hamilton himself. But the Ombudsman considered that, if the council had dealt properly with his claim of September 1994, there would have been no grounds for delay in dealing with the second claim.

9. When the council determined the second claim it also accepted that Mr Hamilton was entitled to housing benefit for the period involved in the September 1994 claim. Arrears of benefit amounting to £2,145 were due to him.

Outcome

10. The Ombudsman found that Mr Hamilton was caused a substantial and protracted injustice, and recommended that, in recognition of this, the council should pay him £750. The Ombudsman also recommended that the council should ensure that only staff who were expert in housing benefit matters should deal with claims and offer advice to claimants.

(Report 96/A/1512)

E4: Benefit administration

Delays and errors in dealing with benefit claim – court action for debt recovery despite fault by the council – discretion fettered over transfer request

1. Ms Adams complained that a council failed to deal properly with the administration of her housing, community charge and council tax benefit claims, and with the administration of her rent, community charge and council tax accounts.
 - her benefit applications from June 1992 were not determined until April 1994. It took the council about a year and nine months to make the determination that the regulations required should be made in about two weeks;
 - in October 1993 the council returned a relevant notification to the Department of Social Security under the mistaken impression that it had no claim from Ms Adams;
 - before claiming income support Ms Adams had been a full-time student.
2. The principal failings which the Ombudsman identified in the way the council dealt with Ms Adams' benefit applications were:
 - her benefit applications from June 1992 were not determined until April 1994. It took the council about a year and nine months to make the determination that the regulations required should be made in about two weeks;
 - in October 1993 the council returned a relevant notification to the Department of Social Security under the mistaken impression that it had no claim from Ms Adams;
 - before claiming income support Ms Adams had been a full-time student.

In early September 1992 the council asked her for information about her grant. She provided some, but not all, of the details that the council needed. The council should have told her that this was not sufficient, but it failed to pursue her for the outstanding information;

- Ms Adams tried to find out what was happening to her benefit claim. She visited the council's offices in February 1993 but her file could not be found. When she followed up this visit with letters she received no reply;
- the housing benefit office twice failed to respond to requests for information from the rents office; and
- the council failed to reply at all to two letters of complaint from Ms Adams.

Council tax

3. The council decided to take recovery action for unpaid council tax for 1993/94 without taking into account its own contribution to Ms Adams' indebtedness. In September 1993 it decided to take court action against her without first checking her benefit claim: had it done so it would have been discovered that her claims had been outstanding since May 1992. The Ombudsman commented:

"The council should not pursue taxpayers for debts that are caused by its own inability to deal properly and promptly with benefit claims."

4. When benefit was paid after a delay of almost two years, Ms Adams was left with a council tax debt of £74 plus court costs. She was receiving income support, but there was no evidence that she was given an opportunity to pay the outstanding debt in instalments before she received a visit from the bailiff. Nor did the council consider whether it was justified in continuing to charge Ms Adams the court costs.

5. Ms Adams received a total of four visits from bailiffs about her community charge and council tax accounts. The Ombudsman was not satisfied that the council properly considered her circumstances before deciding whether bailiff action was appropriate. In particular, that she was a single parent receiving income support, and that the first visit resulted in the account being returned from the bailiff because she did not have sufficient goods to distrain.

Rent account

6. The Ombudsman also identified failings in the way the council administered Ms Adams' rent account, including the following.

- When, in February 1994, the council first considered possession proceedings, the council had not paid Ms Adams any housing benefit since May 1992, and so it appeared that the rent arrears were over £7,000. The Ombudsman commented:

"It cannot be right for the council to pursue tenants through the courts for rent that is primarily owed because of its own failure to determine a benefit claim."

- The council had a housing benefit rents team to help resolve benefit problems in high rent arrears cases. The Ombudsman considered that the council should have at least considered whether the rents team could help in this case.
- There was no discussion with Ms Adams about a reasonable repayment arrangement for the outstanding sum once her benefit was determined.
- When Ms Adams' case came before the relevant sub-committee for eviction to be considered, the sub-committee was given no clear written information about how the arrears had arisen or about the problems with the benefit claim. The council said that there

would have been an oral report, but the Ombudsman was not satisfied that the sub-committee would have been aware of the full circumstances of the case. The Ombudsman said that eviction decisions should be taken on the basis of proper written reports.

Transfer request

7. Ms Adams applied for a transfer on the grounds of harassment. The council did not deal properly with the application. It decided to suspend her application because of her rent arrears without any consideration of her individual circumstances. It seemed to the Ombudsman that the council simply applied a blanket rule.
8. The council wrote to tell Ms Adams of the suspension, but the letter was wrongly addressed and she did not receive it. She later visited the council's offices to find out what had happened to her transfer application and, when she was not satisfied with what she was told, she sent a letter of complaint. The council did not take this opportunity to consider whether her individual circumstances warranted the suspension being lifted, and it did not reply to her letter of complaint.

Injustice

9. The Ombudsman concluded that injustice had been caused by the council's maladministration. Ms Adams had the anxiety of court action to repossess her home and the fear of possible eviction. She was left with a large debt on her rent account, most of which she could not have foreseen and which she was having difficulty paying. She had the stress of court action for the recovery of money that she did not fully owe on her council tax accounts, and the frightening experience of several visits from bailiffs. She missed the possibility of being rehoused on the grounds of harassment.

Recommendations

10. The Ombudsman recommended that the council should:
 - pay compensation of £2,000;
 - write off the bailiff's costs on the community charge; and
 - consider whether, if there had been no arrears on the rent account, Ms Adams might have been rehoused by the time the Ombudsman's report was issued and, if so, make her an offer without delay.
11. The Ombudsman also made recommendations about administrative processes:
 - the council should ensure that, unless there were exceptional circumstances, it did not seek to repossess a property when, because of its own failure to finalise benefit entitlement, it could not be sure of the amount of rent that was owed;
 - the council should ensure that where there was a delay in determining benefit entitlement, consideration should be given to what action to take about any residual rent arrears that remained once benefit had been paid; and that if arrears had built up of which the tenant could not have been aware, the council should consider the sum that it was appropriate to recover, and offer a reasonable repayment arrangement (similar considerations should apply to council tax debts); and
 - the council should review its arrangement of suspending the transfer applications of tenants who were in rent arrears of more than £500 and look again at its procedures to ensure that they were fair and satisfactory.

(Report 97/A/586)

E5: Fraud investigation

Unreasonable delay in investigation – delay in dealing with request for review

1. Mr Alder complained that there were shortcomings in the way a council dealt with his application for housing benefit and the subsequent investigation of the circumstances surrounding his application.

that there is no entitlement to housing benefit. However, councils must ensure that any such investigation is prompt and as swift as possible as hardship may be caused by unnecessary delays.”
2. He said that this resulted in an accumulation of rent arrears and so he had to sell his car and specialist diving equipment to avoid the loss of his accommodation. He said that he suffered stress and anxiety during this period, which affected his health.
5. The council interviewed Mr Alder and his landlord on two occasions but made no other enquiries. Eight months later the council decided to reinstate benefit entitlement. It had no information which had not been available at the outset. The Ombudsman considered that the time taken to reach a decision was excessive and amounted to maladministration.

The application

3. Mr Alder applied for housing benefit. It was granted. Some three months later the council received a rent proof form showing that the rent had more than doubled and giving a different address for the landlord. The council made enquiries and found that there were discrepancies between the information provided by Mr Alder and his landlord, including a statement by the landlord that Mr Alder was not an official tenant. The council decided to investigate Mr Alder's claim as it appeared that his tenancy was contrived to take advantage of the housing benefit scheme. A little while later the council notified Mr Alder that it had determined that he was not entitled to housing benefit.

The decision to investigate

4. The Ombudsman considered that the decision to investigate the claim for benefit was reasonable in view of the sudden increase in the rent, and the conflicting statements made by Mr Alder and his landlord. The Ombudsman said:

“Councils have a responsibility to check that housing benefit is being paid in accordance with the regulations and must investigate where there is an indication

Other delays

6. When the decision to stop the benefit was made, Mr Alder (through his solicitor) requested a statement of the council's reasons. It took the council 13 weeks to respond although this information should have been provided within two weeks. The council then took 30 weeks to carry out the review of the original determination which Mr Alder requested. During this period he had no housing benefit and made the council aware that he was running into debt. The Ombudsman considered the delay in dealing with the request for a review was also maladministration.

Outcome

7. The council had apologised to Mr Alder for the delay and paid him £100 compensation from its own compensation scheme. The Ombudsman commended the council for this scheme and for its recognition that it had delayed unreasonably, but considered that £100 did not adequately compensate Mr Alder. The Ombudsman recommended that a further £500 should be paid to Mr Alder.

(Report 96/B/3505)