

## Section H: Local taxation

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# H1: Liability

## Dispute over liability – delay – court action – legal costs

1. Mr Scott complained that a council failed to compensate him for inconvenience and cost which he incurred as a result of wrongful recovery action in respect of council tax for which he was not liable.

about costs. The solicitor presented the council with a claim for costs which the council declined to pay. The council's reason was that the costs occurred only as a result of Mr Scott's decision to instruct a solicitor to represent him, rather than dealing with the matter himself.

### Tenancies

2. Mr Scott owned a house which he let out to tenants. The council told him in March 1998 that it had designated the property as a house in multiple occupation (HMO) and that he was liable to pay £1,116 in respect of council tax.
3. Mr Scott wrote three letters to the council disputing that the house was an HMO. Seven weeks after the third letter the council replied and asked him for some information about the tenancies. Mr Scott promptly supplied the information.
4. The council did not act on that information until July 1999, when it decided that Mr Scott was not liable for the tax.

8. In the investigation the Ombudsman found that the letter and documents which Mr Scott sent to the council in November 1998 had been separated from his main file and were not found until June 1999. The council accepted that, if the papers had been consulted earlier, its view that Mr Scott was responsible for council tax would have been withdrawn before the issue of the summons.

### The Ombudsman's view

9. The Ombudsman said that the delay in dealing with the information which Mr Scott sent the council at its request was unreasonable and amounted to maladministration.
10. The Ombudsman said it was reasonable for Mr Scott to instruct a solicitor to defend him. Accordingly, the council's maladministration caused Mr Scott injustice: his solicitor's cost and his own time and trouble.

### Court action

5. In the meantime, in January 1999, Mr Scott was served with a summons to attend the magistrates' court because the council tax bill was unpaid.
6. Mr Scott instructed a solicitor who attended the court and discussed Mr Scott's case with a council officer. The officer agreed that the summons should not have been issued, and withdrew it.
7. The solicitor said he was advised by the council's officer to write to the council

### Remedy

11. The Ombudsman recommended that the council should pay Mr Scott his legal costs of £940, together with £100 for his time and trouble.

*(Report 99/A/3513)*

