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Housing benefit

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F1: Appeals

New system – failure of council to resource adequately – long delays for appellants – recommendation for statutory time limit

Mr Ash complained that a council delayed unreasonably in referring his housing benefit appeal to an independent tribunal.

Cancellation of benefit

1. The council notified Mr Ash that his housing benefit of some £64 a week had been cancelled. That was on 10 October 2001.
2. Mr Ash appealed and the council received that notification on 22 October. On 31 October the council sent Mr Ash an explanation of why the decision had been taken. On 5 November the council received from Mr Ash confirmation that he still wished to appeal.
3. Mr Ash was aggrieved that the council showed no sign of submitting his appeal to the appeals service. He complained by telephone and letter. He said his concern was heightened when a council officer told him that there were appeals from four months earlier which had still not been sent to the appeals service. So Mr Ash complained to the Ombudsman.

Change of system

4. For many years claimants had the right to appeal against decisions on their housing benefit claims. Appeals were heard by review boards administered by councils.
5. Regulations introduced in 2001 changed the arrangements. Appeals were now to be considered by independent tribunals run by an appeals service. The regulations took effect from July 2001.
6. In this case the council received a Government grant of some £27,000 to help prepare for the new system. About

£2,000 was spent on a computer software package. The senior housing benefit officer proposed the appointment of a specialist appeals officer, but the council delayed for some seven months before approving that proposal.

The Ombudsman's view

7. The Ombudsman found that appellants were having to wait, on average, at least five months before the council submitted their appeals to the appeals service. The Ombudsman described that as a disgracefully long time.
8. The Ombudsman found that the council did not properly prepare for and resource its benefit section to deal with the new system. That was maladministration.
9. The Ombudsman commented:
"Housing benefit claimants are usually among the least privileged in our society. Awaiting the outcome of their appeals, they suffer at best worrying uncertainty and at worst great hardship. The longer the appeals process takes, the more they suffer."
10. The Ombudsman noted that there was no statutory time limit laid down for councils to submit the appeals to the appeals service. The Child Poverty Action Group proposed that there should be a statutory time limit and that it should be four weeks. The housing law committee of the Law Society took the same view. The Ombudsman suggested that central government should set a timescale. Twenty eight days seemed a reasonable time, taking into account the fact that councils would have collected most, if not all, of the necessary information

when reconsidering their decisions prior to the appeal stage.

Outcome

11. In the case of Mr Ash, the council agreed to give his appeal priority. That was a satisfactory settlement of his particular complaint and the time taken, in effect, was only just in excess of the suggested 28-day timescale.

12. But there were other appellants whose appeals needed to be processed. The Ombudsman urged the council to take special measures to ensure that their appeals were quickly submitted to the appeals service.

(Report 01/C/13400)

F2: Benefit administration

Initial delay – benefit withdrawn in error – delay in appeal – court action by council

Mr Lloyd complained about the way a council dealt with his housing benefit and council tax affairs.

Faults

1. The Ombudsman identified serious faults by the council:
 - the council took a year to assess Mr Lloyd's first claim for housing benefit, which was an unreasonable delay of 10½ months;
 - after the claim had been in payment for three months, the council cancelled it in error; and
 - it then took the council more than nine months to respond to Mr Lloyd's request for an appeal and to put its error right.
2. The Ombudsman commented that benefit regulations and Government guidance did not set a time limit by which a council should hear an appeal. But the Ombudsman considered it should have been reasonably practicable for the council to have considered and decided Mr Lloyd's appeal within four weeks of receiving his request.

Court action

3. The Ombudsman was also critical that, during these periods of unnecessary delay, the council took court action against Mr Lloyd. The council served a notice of seeking possession on the

grounds of rent arrears. The council also obtained a liability order for council tax debts. The Ombudsman considered that these actions, while the benefit claims and appeals were outstanding as a result of the council's own delay, were maladministration.

Injustice

4. The family was caused considerable injustice. This included the inconvenience of having to chase the progress of their claims continually and provide unnecessary information, the distress of attending court hearings, the worry that their home would be taken away from them, and a great deal of time and trouble in trying to resolve the matter first with the council over a two year period and then by a complaint to the Ombudsman.

Outcome

5. The council made changes to its procedures to try to avoid a recurrence of the problems Mr Lloyd experienced, and agreed to pay him £1,000.

(Report 01/B/17580)

F3: Benefit administration

Registered charity – pattern of maladministration

A charity complained about the way a council handled claims for housing benefit from its clients.

The charity

1. The charity provided housing and support to young people who were vulnerable and would otherwise be homeless.
2. The charity complained that the council failed, in a significant number of cases, to handle housing benefit claims properly. This created uncertainty, stress and anxiety for its clients about the security of their accommodation in the absence of other means of paying their rent. The charity also said that delays in making payments adversely affected its ability to fulfil its purpose as fully as it might have done, and imposed a financial cost in finding or using alternative funds pending receipt of housing benefit payments.

Pattern of maladministration

3. The Ombudsman examined seven individual cases in detail. He found that these highlighted a consistent pattern of maladministration which featured:
 - delay in processing claims (the time taken could amount to as much as six months);
 - failure to make payments on account in appropriate cases;
 - failure to take account of information supplied with an application, leading to unnecessary requests for the information to be supplied again;

- failure to take account of applications and information received since the date of the original application;
- failure to deal properly with requests for reviews of entitlement; and
- failure to reply to correspondence, including formal complaints.

Injustice

4. The Ombudsman found that rent arrears built up, in some cases in excess of £1,000 and in one case as much as £3,000. This caused stress and anxiety to vulnerable clients of the charity. The Ombudsman also found that the financial position of the charity was affected adversely and this caused stress, anxiety and unnecessary trouble to its employees in trying to resolve those matters rather than carrying out work for which the charity was established.

Outcome

5. The council agreed to:
 - review its procedures so as to eliminate the systemic flaws identified by the Ombudsman;
 - pay each of the claimants £100; and
 - pay the charity £1,800 to recognise the injustice caused to it.

(Report 01/B/9172 et al)

F4: Benefit administration

Delay in assessing housing benefit claims – rent arrears – tenant evicted by the council

Mr A complained that a council evicted him from his flat as a result of rent arrears attributable to errors and delays on the part of the council in assessing his entitlement to housing benefit.

Delays

1. The Ombudsman found that Mr A's claims for housing benefit suffered unacceptable delays, caused by the council's contractor's failure to ask for the required information at an early stage. In particular:
 - the first claim took eight months to assess;
 - the second claim took five months to assess;
 - the third claim took four months to assess; and
 - the fourth claim took five months to assess.

Eviction

2. Before determining any of the claims, the council set eviction proceedings in train because of Mr A's rent arrears. The officer responsible for the management of Mr A's rent account said at the time that there were no housing benefit matters outstanding. She also gave inaccurate information about Mr A's immigration status.

3. Mr A was evicted. But once his benefit was assessed and credited to his rent account, it virtually extinguished the arrears for which he had been evicted.

Injustice

4. The Ombudsman found that the council's decision to evict, based on an erroneous assessment of Mr A's circumstances, caused him worry and frustration and led him and his wife to suffer the considerable distress of a year of homelessness, which was continuing at the time of the Ombudsman's report.
5. The Ombudsman said that Mr A should never have been evicted and the council ought to put right its error.

Remedy

6. The Ombudsman recommended that the council should:
 - make Mr A an *ex gratia* payment of £4,000; and
 - take all practicable steps to rehouse Mr and Mrs A in suitable accommodation as quickly as possible.

(Report 01/B/3)

F5: Benefit administration

Delay – errors – communication

Ms Harrison complained about the way a council dealt with her claims for housing benefit and council tax benefit.

Faults

1. The Ombudsman found evidence of delays by the council in assessing benefit and of errors in calculation. At one point the council sent letters to Ms Harrison giving very different assessments of housing benefit for the same period.
2. The Ombudsman observed that the aim of the housing benefit and council tax benefit system was to provide assistance to low income families in paying their rent and council tax. Ms Harrison's experience of the system was that, far from assisting her, it caused problems leading to arrears of rent and council tax, threats of losing her home, and court appearances. She was forced to borrow money to avoid eviction. The resulting stress and anxiety had such an effect on her health and wellbeing that she then chose not to apply for benefit to which the Ombudsman thought she might well have been entitled.
3. The Ombudsman commented:

"The HB/CTB system itself is complex and confusing, requiring as it does reassessment and notification of entitlement for every change in a claimant's circumstances and for all Government changes in allowances. This makes it all the more important that assessments are carried out promptly, efficiently and accurately."

Communication

4. Ms Harrison said that, before deciding to return to work, she made enquiries about what financial help would be available. She understood that she would be able to claim an allowance for some of her child care costs. She referred to child care costs on her application form. No reference was made to such costs in the assessment and the rules applying to child care allowances were not explained to her.
5. The council argued that assessment letters only referred to child care costs where they were allowed. There was, the council said, no legal requirement under the regulations to refer to a decision not to allow child care costs or to explain the award criteria. But the Ombudsman said it was clearly a failure amounting to maladministration that Ms Harrison was not told promptly that much of her claim for the allowance would not be accepted unless the child minders were registered.
6. The Ombudsman was also concerned about the information given to Ms Harrison in connection with court proceedings for council tax arrears. He pointed out that great anxiety could be caused by the threat of court proceedings and commented:

"It is important that clear and comprehensible information is given about the nature and purpose of the legal proceedings, what will happen in court and the options open to anyone wishing to appear in court. I hope that, for the future, the council will review the information it provides in such circumstances."

Outcome

7. The Ombudsman recommended that the council should:
 - pay Ms Harrison £500 to recognise her avoidable anxiety and distress, and the benefits she might have missed because of the failure to deal properly with the application for child care allowance; and
 - review its administrative arrangements.

(Report 00/B/10421)

F6: Benefit administration

Overpayments – notification letters

An advice agency complained on behalf of Mr North and Mrs South about the way a council handled the question of overpayment of housing benefit.

Concerns

1. The agency was concerned about how the council had decided whether there had been an overpayment; how it decided whether the payment was recoverable; and how and when it took steps to recover the overpayment.
2. Mr North and Mrs South said they were confused about what they should be paying and were worried about whether or not they owed money to the council.

The Ombudsman's view

3. The Ombudsman commented:

"The recovery of overpayments of housing benefit is an important issue for councils as it has a financial impact on them. The law is quite specific about the process that has to be followed. The council cannot decide that all overpayments are recoverable. Each case must be looked at on its merits. The council has to decide whether there is an overpayment and whether it considers the overpayment is recoverable; why it considers this; and whether it should therefore recover the sum involved. The council must then explain its decision to those affected. The letter should comply with the relevant legislation and should show the claimant how and why the decision has been taken."

4. The Ombudsman noted that the relevant regulations required the council to give a considerable amount of information and

that in itself could make a letter difficult to understand. He recognised that designing letters that both met the regulations and were understandable presented a problem for all authorities. But, even bearing that context in mind, he did not consider the council's administration in the case of Mr North and Mrs South was acceptable because:

- the overpayment notification letters failed to meet the requirements of the regulations and were unclear and, at times, nonsensical;
- the letters were not valid notifications so the council was not entitled to recover the monies owed;
- the council should not have started recovery immediately, before the claimants had an opportunity to appeal; and
- the council failed to reply to, or replied inadequately to, letters querying the overpayments.

Project group

5. The Ombudsman recognised the importance of the work being done by a project group of local authorities which wanted to improve the standard of notification letters.
6. The Ombudsman was pleased to note that the council had already introduced some changes to improve the quality of notification letters. He recommended that the council should report back to him within six months about the work of the project group and the council's own work to improve overpayment notification letters.

Outcome

7. The Ombudsman also recommended that the council should:

- pay compensation of £550 to Mr North and £575 to Mrs South;

- arrange for a senior officer to review Mr North's and Mrs South's claims for the periods concerned to ensure that any overpayments wrongly recovered were reimbursed; and
- review its policy on when to start recovery of overpayments.

(Report 01/A/1770 et al)

F7: Benefit administration

Cancellation of benefit – delay in restoring benefit – claimant evicted

Miss Hudson complained about the cancellation of her housing benefit.

What happened

1. The council cancelled Miss Hudson's housing benefit following a routine unannounced visit. She acted promptly to try to get her benefit reinstated, but the council failed to take any significant action for a long period. Miss Hudson built up rent arrears and she was evicted by her landlord from the home she had occupied for eight years. Following her eviction she was unable to find permanent accommodation. She said she found it difficult to find affordable rented accommodation, particularly with a county court judgement against her.

Reinstatement of benefit

2. The Ombudsman found that it took the council nine months to reinstate Miss Hudson's housing benefit.
3. During that time she made seven visits to the council's offices and, the council accepted, made at least 15 telephone calls.
4. A voluntary organisation approached the council on Miss Hudson's behalf when her landlord issued a county court

summons. The organisation said it made 10 calls to the council and no-one could explain the reason for the delay in reinstating Miss Hudson's housing benefit. Even after this approach by the voluntary organisation and knowledge that Miss Hudson was threatened with eviction, the council took three months before restoring the benefit. During that time the council mislaid some of Miss Hudson's utility bills and asked for them to be provided again.

The Ombudsman's view

5. The Ombudsman said that, even if there were grounds for the council to cancel the housing benefit, once Miss Hudson had provided all the information requested the benefit should have been reinstated promptly. He said:

"Councils should have robust systems in place to ensure that claimants who are threatened with eviction can have their outstanding housing benefit claims dealt with quickly."

6. The council agreed to pay Miss Hudson £3,000 compensation.

(Report 01/B/13575)

F8: Benefit administration

Failure to undertake annual rent review – computer error – exceptional hardship scheme

Mr Ash complained that a council did not deal properly with the housing benefit claims of himself and his former partner.

The circumstances

1. In particular, Mr Ash complained that the council underpaid housing benefit as a result of its failure to arrange a rent review by the rent officer. As a result, he and his partner received less housing benefit than they were entitled to. They moved to a less suitable house with all the expense and stress that entailed. The house was less suitable because the rooms occupied by the four children were smaller, and because they had had adaptations made to their previous house – these were an extension and shower for one of their children who was disabled.

What the Ombudsman found

2. Mr Ash and the family moved because their housing benefit left a shortfall of some £25 a week by comparison with the rent.
3. The council had failed to arrange an annual rent review. That was because of a computer error. If the review had been undertaken that would have led to an award of housing benefit equivalent to the full rent.
4. The Ombudsman found that the council's failure to arrange the rent review caused significant and unnecessary hardship, stress and upheaval for Mr Ash and his family.

Outcome

5. When the error came to light, the council quickly apologised and paid Mr Ash and his family £3,000 to cover the lost benefit, a discretionary hardship payment for a year, and compensation for moving costs, the stress the family was caused and their time and trouble in making their complaints, and in recognition of the fact that their new house was not as suitable as the former house.

Hardship fund

6. The council could make discretionary housing payments to people who were entitled to housing benefit or council tax benefit and who appeared to need additional financial help to meet their housing costs. The council advertised the scheme in one paragraph on the back of housing benefit notification letters.
7. The Ombudsman suggested that the council should advertise the hardship scheme more prominently than it did.

(Report 01/C/5951)