



Section G

Local taxation

G1

Liability

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G1: Liability

Arrears – deduction from benefits – mistaken identity

Solicitors acting for Mr D Parry complained that a council (council A) improperly took money from his income support.

What happened

1. Council A believed that Mr Parry owed council tax arrears for a three-year period. The council secured a liability order for outstanding tax of £1,800. It obtained Mr Parry's national insurance number and applied to the benefits agency for direct payments to be made to it from Mr Parry's income support. That is what happened.
2. Mr Parry's solicitors had sent information to council A showing he was a tenant of council B for the relevant period and therefore could not owe any council tax to council A.
3. The Ombudsman found that, as a result of a visit to a property in its area, council A formed the belief that its debtor, who was another D Parry, lived in London NW2. It could not find him there, but found from an examination of public telephone records, that there was a Mr D Parry (the complainant) living in London SE15. That information alone convinced council A that this was indeed the same Mr D Parry that owed it council tax.
4. When council A sought information from council B, council B's officers did not ask any questions as to why council A seemed to think that Mr D Parry, the complainant, who had been one of its tenants for many years, owed council tax to council A. Mr Parry in fact had not lived in the area of council A for 30 years.

The Ombudsman's view

5. The Ombudsman said that councils had a duty to collect council tax and pursue the debts of those who would not pay. All council tax payers benefited from their council taking a robust approach to payment. So council A could not be faulted for its commitment to sound financial management. Unfortunately, it was let down by a recklessly flawed approach to collecting the debt in this case. It was aided and abetted by council B who provided information inappropriately.
6. Council A made no inquiry of Mr Parry to check that he was indeed the debtor. The law required a council to give a debtor the opportunity to challenge its intentions to apply for deductions from benefit. Council A's revenues manager said there was little point in contacting defaulters as those who were intentionally evading payment would not respond.
7. But Mr Parry was not a debtor. The Ombudsman had no doubt that if council A had complied with the law and explained what it intended to do, Mr Parry would indeed have responded and pointed out the mistake.
8. The mistakes of council A were compounded by the actions of council B, and its officers did not ask even the most obvious questions about why council A seemed to think that Mr Parry owed it council tax. Officers gave information about Mr Parry's benefit status, which they should not have done.

9. The Ombudsman described Mr Parry's situation as Kafkaesque. He discovered by accident that his benefit was being taken to pay a council tax debt in a place he had not lived for over 30 years. Council A found it had made a mistake and stopped making deductions, but it did not refund the money it had taken for another three months. The Ombudsman said that the council's failure to make prompt restitution was further maladministration.

Injustice

10. The Ombudsman noted that Mr Parry's benefit had been refunded. But he had been deprived of money when he was on a very low income, and the Ombudsman thought he must have suffered some difficulty as a result. He also must have suffered outrage from his bizarre treatment from the council as his

solicitors struggled to get things put right. Council B also had to take some responsibility because, if its officers had acted with more common sense, and if it had had proper procedures in place to deal with such requests, it would probably have alerted council A to its mistake.

11. The Ombudsman recommended that Mr Parry should be paid compensation of £750 by council A and £250 by council B; and that both should review their procedures.

(Report 02/B/9186 et al)

