

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint against
Calderdale Metropolitan Borough Council
(reference number: 19 005 195)**

10 September 2020

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mrs X	The complainant
Mr Y	Her partner
Officer 1	Revenues Officer
Officer 2	Revenues Manager
Officer 3	Revenues Supervisor

Report summary

Benefits and tax- council tax

Mrs X complains the Council mismanaged her council tax account leaving her not knowing what she owed and why and then failed to deal with her complaint about this.

Finding

Fault found causing injustice and recommendations made.

Recommendations

To put matters right the Council should:

- apologise to Mrs X.
- pay Mrs X the £240.36 the Council charged her because of its mistakes.
- pay Mrs X an additional £500 for the distress it has caused her and the unnecessary time and trouble it put her to.

The Council should also review its complaints procedure. If it intends to continue with a one stage procedure it should ensure it has a system so that a senior manager, not involved with the matter complained about, carries out the investigation.

The Council has accepted our recommendations.

The complaint

1. Mrs X complains the Council mismanaged her council tax account leaving her not knowing what she owed and why and then failed to deal with her complaint about this. Mrs X says the stress of dealing with this made her ill. She said she had to claim sickness benefits and could not open emails and letters about her council tax.

Legal and administrative background

2. We investigate complaints about ‘maladministration’ and ‘service failure’. In this report, we have used the word ‘fault’ to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. We refer to this as ‘injustice’. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
3. The law says we cannot normally investigate a complaint when someone can appeal to a tribunal. However, we may decide to investigate if we consider it would be unreasonable to expect the person to appeal. (*Local Government Act 1974, section 26(6)(a), as amended*)
4. The Valuation Tribunal deals with appeals against decisions on council tax liability and council tax support or reduction.
5. Mrs X could appeal to the Valuation Tribunal if she disagreed with the exemptions the Council awarded on her council tax. However, Mrs X does not dispute the exemptions, her complaint is about the delay in awarding the correct exemptions. Therefore, we have exercised discretion to investigate the complaint.

Council tax exemptions, discounts and reduction

6. A full-time student is exempt from council tax. If only students live in a property, it is exempt from council tax. The exemption covers holidays and ends at the end of the course or when the student leaves the course.
7. If a student lives with a non-student, a council ignores the student for council tax purposes. This means the property is not exempt from council tax. Therefore, if two adults live in the home, but one is a full-time student; the Council will give a 25% single person discount.
8. Until 1 April 2019 the Council gave a 30-day exemption from council tax to a substantially unfurnished, empty property.
9. People on a low income or benefits can claim council tax reduction to help with the council tax. The claimant can ask the Council to backdate the claim but only for a maximum of one month.

The Council’s complaints policy

10. The Council has a one stage corporate complaints procedure. This says it will get an appropriate manager to act as an investigating officer and respond within 10 working days.
11. The Council says it will implement “lessons learnt” from complaints to reduce or eliminate the chances of it happening again.

How we considered this complaint

12. We produced this report after examining relevant documents and interviewing the complainant.
13. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What we found

What happened

14. Mrs X moved into a property (property A) in September 2017 and told the Council. Later that month her partner, Mr Y, moved in with her. Mrs X is autistic and Mr Y has Post Traumatic Stress Disorder.
15. Both Mrs X and Mr Y were students. The Council has a note that in October 2017 Mrs X came to the office, told it about Mr Y and handed in students forms. The Council exempted Mrs X and Mr Y from council tax from 10 September 2017.
16. In February 2018 the Council exempted Mrs X and Mr Y from council tax for the year April 2018 to March 2019. It sent them notice of this.
17. On 18 February 2019 Mrs X and Mr Y moved to property B. They had to give a month's notice for property A and so their tenancy did not end on property A until 10 March. Between 18 February and 10 March Mrs X and Mr Y were liable for the council tax on both properties. Property A was unoccupied and unfurnished.
18. The Council registered Mrs X and Mr Y for council tax at property B from 18 February 2019 but did not end their liability at property A until 17 March 2019.
19. The Council has two letters dated 15 February 2019 from a college confirming that both Mrs X and Mr Y are still full-time students with it from September 2018 to June 2019.
20. On 4 March 2019 the Council sent Mrs X the council tax bill for property B for 1 April 2019 to 31 March 2020. This said she was exempt from council tax and had nothing to pay.
21. On 14 March the Council sent a council tax bill to Mrs X for property B for 18 February 2019 to 31 March 2019. This said she owed £130.96.
22. On 18 March the Council sent Mrs X a new council tax bill for property B for 2019/2020 saying she owed £1,186.87 and had no exemptions. Mrs X contacted the Council. She asked it if she should fill in new exemption forms and get a letter from the college confirming she and Mr Y were both students until June 2019.
23. A Revenues Officer, Officer 1, replied the next day. He said in October 2017 Mrs X said she and Mr Y were both students, but the Council only had proof she was a student. Officer 1 made a note that Mr Y did not have student status. He removed the 100% student exemption for property A and applied a 25% single person discount instead. Officer 1 noted that Mrs X should get council tax reduction instead and he would ask the Benefits Section to look at the new bills before he sent them.
24. On 20 March Officer 1 emailed Mrs X and said she was only entitled to a 25% discount from September 2017 as Mr Y was not a student. Officer 1 said he would send new bills and the Benefits Section was also making amendments.

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25. On 21 March a different Officer noted that Mr Y had provided evidence of his student status from 3 September 2018, so the Council should reapply the exemption from then. This Officer also noted Mrs X and Mr Y would need to make a new application for student exemption for property B from 17 March 2019.
 26. On 22 March 2019 the Council sent Mrs X new bills for 2017/2018 and 2018/2019. These said she now owed £461.30 for 4 September 2017 to 31 March 2018 and £372.42 for 1 April 2018 to 2 September 2018.
 27. On 10 April Mr Y sent another copy of his college certificate and student exemption application to the Council. Mrs X telephoned the Council and told it she and Mr Y are students and the Council had the proof of this on file for their former address. Mrs X then went to the office and provided the proof again. The Council then added the student exemption for property B, but only from 17 March 2019. It sent Mrs X a new bill for property B for 18 February to 17 March 2019 saying she owed £84.19.
 28. Mrs X contacted the Council on 12 and 23 April. The Council notes of 23 April say the Officer she spoke to confirmed what exemptions Mrs X had on her accounts and said he would send new bills. The Council sent Mrs X a new bill for property B for 2019/2020 showing the exemption. It did not send her a new bill for property B for 18 February 2019 to 31 March 2019.
 29. On 30 April the Council sent Mrs X a final notice for the £84.19.
 30. On 1 May 2019 Mrs X telephoned the Council. Its notes say it told her she still had to provide proof of Mr Y's student status from October 2017.
 31. Mrs X paid the £84.19. The Advisor who took the payment told Mrs X she owed this money due to the overlap in her tenancies. The Advisor said the Council had applied the student exemption to property A until Mrs X moved into property B.
 32. Mrs X says this Advisor told her she still owed £372 for property A. Mrs X says the Advisor agreed the Council would not take any action to recover this until the end of May 2019 to give Mrs X time to get evidence from the college. Mrs X says the Advisor said the Council would let her pay any amount still owed over 12 months.
 33. Mrs X says she telephoned again the same day to ask if the Council could swap the exemption from property A to property B from 17 February. She says the Advisor said this would be difficult.
 34. On 1 May Mrs X and Mr Y made a complaint. In the complaint Mrs X said she had provided a letter from Mr Y's college in October 2017 and the Council had applied the exemption. She asked how the Council had lost this. She said she would contact the college and try to get another copy.
 35. Mrs X said last week an Advisor told her she had nothing to pay, she then got a bill for £84.19. She said when she paid this a different Advisor said she still owed £372. She said the Advisor also told her it would be a problem to change residency dates.
 36. Mrs X said if the Council had told her in October 2017 the student exemption did not apply, she could have applied for council tax reduction. She said if the Council had told her the exemption did not apply in the Summer holidays, she again could have applied for council tax reduction. She said the Council's website said the exemption did apply during the summer if already at college and intending to return to education the next year. Mrs X said she intended that day to apply for council tax reduction and she hoped the Council would backdate this.

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37. On 8 May Mrs X received final notices for the £461.30 and £372.43. The notices said if Mrs X did not pay the full amount in seven days the Council would summons her to court adding its fees for this to her accounts. Mrs X emailed the Council to say the Advisor she saw on 1 May said this would not happen and she had until the end of May to provide the letter from the college. Mrs X said the Council had confirmed in writing that she could pay over 12 months if she was liable for the bills.
 38. Mrs X also went to the Council Offices. The Advisor she saw told her the Council could not backdate council tax reduction to 2017 and 2018. The Advisor filled in a hardship form. Mrs X told her the evidence from Mr Y's college was on its way.
 39. On 9 May another Council Tax Officer telephoned Mrs X about her complaint. This Officer noted she told Mrs X the Council had to cancel the exemptions for 2017 and 2018 as it did not have proof Mr Y was a full-time student. This Officer said the Council should not have awarded the exemption and should have asked for the missing documents in 2017. The Officer said if Mrs X provided the proof now it would reinstate the exemption. Following this telephone call Mrs X and Mr Y sent an email asking to go to the next stage of the complaints procedure.
 40. On 10 May Mrs X provided the letter from Mr Y's college.
 41. On 12 May the Council gave an empty property discount to property B for 18 February to 16 March 2019. Its notes say the Officer believed property B was unoccupied during that time. It sent Mrs X a new bill saying she had a credit of £84.19 on the account for property B. On 14 May the Council cancelled the discount but did not send Mrs X a new bill.
 42. On 14 May the Council reinstated the student exemption for property A from September 2017. However, for 29 June 2018 to 3 September 2018 it only applied a 25% single person discount. An officer noted this was because Mr Y finished one course on 29 June 2018 and started a different course on 3 September 2018.
 43. The Council sent Mrs X a new bill for property A for 1 April 2018 to 16 March 2019 saying she owed £156.17. The Council did not send Mrs X a new bill for 2017/2018, showing it had applied the exemption.
 44. On 17 May 2019 Mrs X went to the Council office about the new bill. An Officer told her to wait until the Council sent her a reminder and then set up a direct debit.
 45. On 29 May Mrs X and Mr Y asked the Council to reply to their complaint.
 46. On 10 June a Council Tax Officer emailed Mrs X. The email says Mrs X's account was correct and she owed £156.17. It said this was because Mr Y changed courses in 2018 and so did not have student status for Summer 2018. On 13 June Mrs X told the Council it had not sent her the exemption notices for property A. The Council sent her the notices on 14 and 17 June. On 18 June the Council repeated it had applied all exemptions correctly.
 47. On 19 June Mrs X told the Council she wanted a full reply to her complaint as the responses so far were ambiguous and confusing. She said she had spoken to an Advisor that day who had caused her further distress. She wanted the Complaints Department to reply to her, not a Council Tax Advisor.
 48. Mrs X said in her telephone call of 19 June she asked what had happened to the £84.19 credit on her account. She says the Advisor told her he did not know what had happened to it.

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49. On 24 June Officer 2 replied to Mrs X's complaint. He said the Council had made several errors. Officer 2 said the Council originally gave Mrs X 100% exemption for Summer 2018. He said this was an error as it should only have been 25%. He apologised for this. He also apologised for setting up a direct debit on the wrong account. He also accepted the Council had sent some wrong bills and given some wrong advice.
 50. Officer 2 said he would set up a direct debit to recover the outstanding £156.17 at £30 a month.
 51. Mrs X was not content with the response and contacted the Complaints Departments to ask how to take her complaint further.
 52. On 25 June the Complaints Department responded. It said Officer 2 hoped he could informally resolve her complaint. It said, Officer 3, would now look into Mrs X's concerns and provide her with a formal written response. The Complaints Department sent a notice to Officer 3, asking her to investigate the complaint and reply to Mrs X.
 53. Mrs X received a reply from Officer 3 the next day, 26 June. This said it only came to light in March 2019 that the Council should not have applied the student exemption in Summer 2018. She apologised as the Council did not apply the correct exemption. She said all the other bills the Council sent were correct as it had to issue a new bill when there was a change in an account.
 54. On 26 June Officer 2 made a note saying he had replied to Mrs X in Officer 3's name because he had already replied to Mrs X's email.
 55. Mrs X began to pay the £30 a month for property A. On 1 October 2019 the Council's records say Mrs X owed £39.19 for property A. Mrs X and Mr Y left college in June 2019 and started to claim council tax reduction.
 56. Mrs X said the stress of dealing with the situation made her ill and she had to go onto sickness benefits. She says she now lives in fear of getting emails or letters about council tax.

The Council's one stage complaints procedure

57. This is not the only recent complaint we have dealt with where the Council's complaint handling is an issue. In complaint 19 005 680 the Council did not properly investigate if a noise was a statutory nuisance. The Council asked a Senior Environmental Health Officer to respond to a complaint about this. The Senior Officer emailed the Complaints Department to say he knew about the case and there was nothing in the complaint. The Senior Officer said he would get the Case Officer involved to write the response.
58. When we sent a draft decision to the Council, the Manager of the two Officers involved replied to us. He defended the position of the Officers and did not agree our findings and recommended remedy. We did not change our view and said, as the Council had not agreed, we would need to issue a public report. The Council then agreed with our findings. It agreed to apologise to the complainant and to monitor the noise if she still wanted this. The Manager wrote to the complainant and said we had instructed the Council to apologise and he had closed her case. We again had to tell the Council we might need to publish a public report before it sent an acceptable apology.
59. In the current case we sent the Council a draft decision. Officer 2 responded to us and did not agree to any of our findings or recommendations.

Findings

The accounts for property A

60. The Council's records show in October 2017 Mrs X provided information about her and Mr Y's student status. The Council found this enough to grant a student exemption. The Council has never explained what made it change its mind in February 2019 about Mr Y's status. We do not know if it lost information provided in 2017 or if it later found the information deficient. Either way the Council is at fault. The Council accepts this as it says it should have dealt with this in 2017.
61. What the Council did not deal with is the injustice this caused. Because the Council did not deal with this correctly at the time, it did not remove the student exemption for Summer 2018, until February 2019. By this time, it was too late for Mrs X to claim council tax reduction. Therefore, Mrs X had to pay a bill for £156.17.
62. The Council told Mrs X she could pay this over 12 months, but then set payments to recover the money in five months. We have not seen any evidence it took Mrs X's circumstances into account when setting this payment. This is fault.
63. The Council caused further injustice as in 2019 Mrs X had to get information for 2017. The Council did not give her a reasonable time to get this before it sent final reminders. This is fault.

The accounts for property B

64. When Mrs X moved to property B the Council had evidence she and Mr Y were full-time students. The Council did not apply the student exemption for February and March 2019. The Council then applied the exemption but only from 17 March 2019. The Council applied the student exemption to property A until 16 March. What the Council should have done was apply the empty property discount to property A and the student exemption to property B. If it had done this, it would not have charged Mrs X £84.19; which she paid.
65. It seems the Council intended to do this but applied the empty property discount to property B instead of property A. It then told Mrs X she had a credit of £84.19. The Council then removed the discount from property B, as it was not empty. It did not send Mrs X a new bill, so she had no idea what happened to the credit. This is fault.
66. In March 2019 the Council had evidence both Mrs X and Mr Y were full-time students. The Council at first applied the student exemption for 2019/2020, but then removed it and sent Mrs X a bill for £1,186.87. Mrs X and Mr Y had to provide the same proof again before the Council added the exemption. This is fault.

The complaint

67. Mrs X made a written complaint on 1 May 2019. Although the Council contacted her, it did not provide a written response until 24 June. The Council's policy says it will respond within 10 working days. The delay in replying was fault.
68. The response did not address most of the points Mrs X made in her complaint. The Council then registered an official complaint and told her a named manager would investigate and respond to her. This did not happen. The same Officer who sent the response of 24 June responded to the formal complaint in the other Officer's name and gave the same response to Mrs X. This is fault. It was inappropriate for the same officer to deal with the complaint. The Council caused injustice as it did not properly investigate her complaint and she had to take it

further. If the Council had properly considered Mrs X's complaint, it should have been able to resolve it sooner.

69. The Council only has one stage in its complaints procedure. We are concerned that the Council is not using the one chance it gives itself to carry out a proper investigation of complaints. Everybody makes mistakes, it is how a council deals with its mistakes that matters.
70. When investigating a complaint, the Council should take a robust, fair and impartial approach. To do otherwise is unfair to complainants and deprives the Council of the opportunity to learn and put things right without involving us. Allowing the officers involved in the decision complained about to give the only reply to a corporate complaint is not robust, fair and impartial. It can lead to the officers taking the complaint personally and/or adopting a defensive approach. If the complaint comes to us, the Council Officer responsible for co-ordinating a response is then put in the difficult position of challenging the officers or sending an inadequate response.

Injustice

71. The Council's actions meant Mrs X paid £240.36 more council tax than she should have needed to. The Council caused Mrs X a great deal of unnecessary time and trouble in providing information the Council already had or should have had. The main injustice the Council caused Mrs X is distress. Mrs X has autism. The constant and often wrong demands from the Council and the wrong information it gave her increased her anxiety and made her ill.

Conclusions

72. The Council faults in dealing with Mrs X's council tax accounts caused her injustice. The Council compounded this by not following its complaints policy, so Mrs X did not get a fair response to her complaint.
73. When we told the Council it was likely we would issue a public report on the complaint, it said it now accepts our findings and recommendations. We are pleased by this but consider it still important to issue the report to highlight the need for good practice in complaint handling.

Recommendations

74. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)
75. To put matters right the Council should:
- apologise to Mrs X.
 - pay Mrs X the £240.36 the Council charged her because of its mistakes.
 - pay Mrs X an additional £500 for the distress it has caused her and the unnecessary time and trouble it put her to.

The Council should also review its complaints procedure. If it intends to continue with a one stage procedure it should ensure it has a system so that a senior manager, not involved with the matter complained about, carries out the investigation.

The Council has accepted our recommendations.

Decision

76. Fault found causing injustice and recommendations made.