

Digest of Cases 2007/08

Section B

Benefits

	Introduction	1
B1	Recovery action	2
B2	Appeal	4
B3	Claim handling	5
B4-5	Outstanding claims	6
B6	Advice and assistance	7

Introduction

In 2007/08 the Ombudsmen received 1,004 complaints about benefits, a 10 per cent reduction from the previous year. These cases, involving housing benefit and council tax benefit, often come from vulnerable members of society who are on low incomes and depend on councils to ensure they receive their entitlement promptly.

Where there are errors, the impact on the complainants can be severe, reducing their incomes and even putting them at risk of losing their homes. In view of what may be at stake for the individuals concerned, it is essential that councils administer their claims properly.

As the cases described here show, councils do not always process claims well. The most common faults include:

- delay;
 - not taking action needed to process claims or deal with appeals;
 - failing to ensure benefit is paid once a claim has been assessed;
 - failing to explain the reasons for decisions properly or to advise people about their rights of appeal, preventing them from exercising those rights;
 - taking enforcement action to collect arrears when a benefit claim is outstanding; and
 - poor liaison between different departments (for example between housing officers and housing benefit staff).
- 

B1: Recovery action

Recovery action taken while claims and appeals outstanding

The complaint

Ms E complained about the council's handling of her housing and council tax benefit claims between November 2004 and March 2006. She said that the council:

- delayed excessively in processing benefit claims and appeals; and
- pursued recovery of rent and council tax arrears while benefit claims and appeals were outstanding.

The Ombudsman's view

The Ombudsman upheld Ms E's complaints, saying the council wrongly took repossession action through the courts and instructed bailiffs to collect council tax arrears from Ms E while her benefits entitlement was unresolved. He commented that the case highlighted serious failings in the council's administration of both housing and council tax benefit and in the recovery of rent and council tax arrears. The Ombudsman said:

“On this occasion I consider the council failed to meet ... basic standards of good administrative practice. It made a series of errors in administering Ms E's benefit claims and in deciding to take recovery action while these claims were unresolved.”

What went wrong

The council's faults included:

- delaying seven months in processing an appeal;
- failing to pay the correct amount of benefit;
- delaying for 10 months in processing a second appeal request;
- failing to carry out an assessment;
- failing to act on information provided;
- failing for seven weeks to give any attention to a further claim based on a change of circumstances;
- taking over seven months to amend the claim to take account of Ms E's receipt of incapacity benefit;
- missing opportunities to clarify the claim and put it into payment correctly;
- failing to check its systems sufficiently in reviewing her entitlement; and
- not having proper liaison between the housing department and benefit services.

All of the above failings took place against the backdrop of Ms E facing the threat of eviction as a result of the council's decision to pursue recovery action through the courts. The knowledge that this action was proceeding should have led the council to give extra care and urgency to the processing of the benefit claims. But it gave no extra priority to resolving the benefit claims, and even failed to comply with an order of the county court to resolve the benefit position as a matter of urgency.

The council did not adhere to its policy of making "every effort" to resolve housing benefit entitlement prior to the matter coming to court, instead putting the onus on Ms E to resolve her outstanding claims. It then compounded these failings by referring the council tax account to the bailiffs without considering – in accordance with its policy for collecting debt from vulnerable council tax payers – whether this action was justified.

Outcome

The council agreed to:

- apologise to Ms E;
- write off an outstanding housing benefit overpayment of £79.46;
- write off an outstanding balance on Ms E's council tax account of £187.39;
- pay Ms E one week's housing and council tax benefit, or else pay financial compensation to the equivalent value;
- pay additional compensation of £1,865 to Ms E (£2,500 minus the amounts already written off on her rent and council tax accounts).

The Ombudsman welcomed the council's agreement to his proposed remedy, and the commitment it gave to improve its procedures so as to avoid a repeat of the failings highlighted during this investigation.

(Report 05B16773)



B2: Appeal

Successful appeal against decision not to pay benefit – subsequent delay

The complaint

Mrs F complained about the council's delay in paying her housing benefit after her successful appeal against its decision that she was not entitled to benefit.

What happened

Mrs F applied for housing benefit. When the council said she was not entitled to benefit, she appealed and was successful. However, there was then a delay of 14 months in paying benefit. The council took no action for 10 months after losing the appeal, and did so then only after Mrs F had complained to the Ombudsman. There was then a further delay of four months in carrying out a full assessment after she had provided additional information in support of her claim that was not linked to the correct case reference number. The complaint also revealed that the council was not monitoring its performance against targets agreed as a result of previous complaints to the Ombudsman from other people in similar circumstances.

The Ombudsman's view

The Ombudsman said:

"The failure to monitor what was going on, despite the fact that Mrs F's complaint was subject to an investigation by my office, suggests a level of carelessness which goes beyond the initial error."

Outcome

To remedy the injustice from the delay in paying Mrs F's claim, the Ombudsman recommended that the council should:

- apologise to Mrs F and pay her £500;
- ensure that it monitored its performance against the agreed targets on a regular basis;
- identify any other cases that remained outstanding from before October 2006 and ensure the appropriate action was taken; and
- review procedures with a view to simplifying them.

(Report 06A15371)

B3: Claim handling

Failure to explain decisions or provide information to claimants

What happened

Where someone claiming benefit has deprived themselves of money, a council may take this into account and assess them as still having the benefit of that money, known as notional capital. It must, however, make a proper decision, give reasons to the person concerned and explain their right of appeal.

In this case, the council never explained to the complainants what notional capital was, why it was being applied or how the figure was arrived at. There was no evidence the council had reached a decision on this issue and, if it had reached a decision, it did not send it to the complainants with the reasons for reaching that decision. The figures used appeared to rise and fall arbitrarily. Only when a complaint was made to the Ombudsman did the council realise it had not dealt with one claim at all but had treated it as a duplicate and filed it.

Outcome

The council agreed to:

- reassess the claim, giving the complainants an opportunity to provide full information about their money and explain what had happened to it. If it still believed they had notional capital it should say how much and why, so that they could appeal;
- remove £53 court costs for a summons for council tax for previous address, since if there had been no delay in assessment they would not have received a summons; and
- pay them £500 for the extreme difficulties caused to them.

Although the handling of the claims had been very poor, the council reacted very well when the Ombudsman became involved. It dealt with the outstanding council tax benefit claim from a previous address. An officer visited the complainants to explain what information was needed and why, and gave them a personal apology whilst there. The council also offered to put council tax recovery on hold whilst the new assessment was carried out.

(Case reference confidential)



B4: Outstanding claim

Inaction leads to a family wrongly being evicted from their home

What happened

A council's failure to take action led to the eviction of a family with two children while the wife was pregnant.

The council's housing department failed to take into account the fact that an application to backdate housing benefit had been submitted, which should have triggered an urgent enquiry to housing benefit with a request to fast-track the claim. As a result of failing to deal with this, possession action was taken and the family evicted from their home. They had to stay with relatives in severely overcrowded conditions. They lost all their possessions and suffered great distress as a result of the eviction and subsequent period of homelessness.

There was no evidence of any action taken to consider the backdated claim and have this fast-tracked. There was poor liaison between departments and between officers dealing with the case and senior officers. Eventually, the claim was fast-tracked – after the eviction – and a decision made to pay backdated benefit for 52 weeks. As a result, the rent account was not only clear, but in credit.

If the proper procedures had been followed and senior officers had been made aware there was a claim for backdated benefit pending, the family would not have been evicted.

Outcome

The council agreed to pay the family £6,000 comprising:

- £2,000 in recognition of the distress and other consequences of the eviction;
- £3,000 recompense for lost possessions; and
- £1,000 in recognition of the stress and other impact of living in overcrowded conditions and for time and trouble taken in pursuing the complaint.

(Case reference confidential)



B5: Outstanding claim

Threatening action when housing benefit claim not yet assessed

What happened

In this case the council was at fault in the way it handled rent arrears on a couple's temporary accommodation, in particular by demanding a payment of £5,000 and threatening to cancel the accommodation while there was an outstanding claim for housing benefit. The council should not have taken the action it did when there was an outstanding benefit claim.

The claim for housing benefit was put into payment in September 2005. It did not cover all the rent and there was a shortfall for the couple to pay as well as arrears of about £1,400. Following a change in circumstances, a reassessment resulted in benefit being increased, leaving a smaller shortfall and lower arrears figure. The couple agreed to make additional payments to reduce the arrears.

The council then cancelled their claim, saying they did not respond to a suspension letter. They then asked about reapplying for benefit and were sent a claim form. The council threatened to cancel their temporary accommodation and demanded a payment of £5,000 to reduce the arrears. However, further reassessments were carried out, resulting in the underlying arrears being reduced to £1,102.71.

Outcome

The council accepted that a better understanding of housing benefit procedures would have assisted housing officers in dealing with the case. It agreed to apologise and pay compensation of £150. It had already started a review of its procedures following other similar complaints.

(Case reference confidential)



B6: Advice and assistance

Failure to provide advice and assistance to young person

What happened

Ms G was 17 years old when she approached the council's revenues and benefits service for help with her rent in November 2006. She had left home in February and been homeless until June of the same year. Her sister had allowed her to rent a property that she owned to prevent her from being homeless.

The Revenues and Benefits Service was unable to pay the full rent for the property because it was considered to be too large for a single person. Ms G applied for help with housing from the council's arms length housing provider. When she did not receive the help she wanted, she was unable to continue living in her sister's property and left in January 2007.

The first housing benefit form that Ms G submitted on 1 November 2006 was lost by the council. Ms G completed another form and provided supporting information on 15 November. On 15 December the council sent her a letter saying that she had failed to provide the supporting information and she was not entitled to housing and council tax benefits. This letter was wrong. Also on 15 December Ms G submitted a claim for backdating of housing benefit. On 18 December she was sent a further letter requesting bank statements and reasons for not claiming benefit sooner. On the same date she was paid a rent allowance for three weeks' rent. This did not cover her full rent, so Ms G wrote seeking a review of the decision. The rent assessment was done by the Rent Service. The adoption of the assessment by the authority when assessing benefit is compulsory and carries no right of appeal to the Tribunals Service, so the appeal against the level of payment could not have resulted in an increase. The council did not inform Ms G of this.

The Ombudsman's investigation

The council failed to advise Ms G about the possibility of a discretionary housing payment. If she had known about this she could have applied for assistance to cover the shortfall between housing benefit and rent while she sought more affordable accommodation. When the council knew that she would have to leave the property because of the shortfall it failed to offer her assistance as a potentially homeless 17-year-old. The arms length management organisation (ALMO) simply suspended her housing application because she was ineligible for a secure tenancy, being under 18 year of age. She was offered no other housing advice. A payment of backdated benefit was not made until September 2007, after the Ombudsman had made enquiries about the complaint.

Outcome

In recognition of these failures, the council agreed to make Ms G a discretionary housing payment of £495 with an additional £55 for loss of documents and delay in resolving the housing benefit claim, and £250 for the failure to offer her advice about her housing situation. It also agreed to review its procedures with particular regard to communication between benefits staff and the ALMO and providing housing advice and assistance for young people.

(Case reference confidential)