

Digest of Cases 2008/09

Section B

Benefits

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Introduction

The main feature of the summaries in this section is the way councils have responded to people who are vulnerable, whether because of their age, illness or disability. Many people struggle to understand the benefits system and need clear information about what is needed from them to pursue their claim. We have included one summary in which the council's response was quick and helpful as an example of what can be achieved (B5).

We recognise that on occasions people do not respond to requests for information and it is difficult for councils to provide additional services for people who might be struggling. But councils are often dealing with people when they are at their most vulnerable, and they have duties under equalities legislation with which they must comply. This may mean providing different, more accessible services for some claimants.

B1: Recovery action

Man with visual impairment – difficult for him to read council's letters – council dealt with through complaints procedure – resolved benefits entitlement and agreed better way of communicating

The complaint

Mr G complained that the council had failed to deal with his housing and council tax benefits properly and had taken unjustified recovery action against him. The complaint had been dealt with through the council's complaints procedure but he was dissatisfied with the outcome.

What happened

In 2004 Mr G stopped claiming income support and relied on his disability living allowance. He informed the council's One Stop Shop of the change. The council said it requested more information from him which he did not provide. The benefits were suspended for a time but reinstated as if he were still claiming income support. In January 2007 the council informed Mr G that he had been overpaid since 2004 and cancelled his benefits back to that time. Mr G did not appeal against this decision. Mr G said that he was at that time receiving a lot of confusing information from the council that he had difficulty reading. He said the council was aware of his visual impairment.

The council wrote to Mr G about the council tax arrears that resulted from the cancellation of council tax benefit. A summons was sent in June. He did not reply to the summons. A liability

order was obtained in July and the matter was passed to bailiffs who sent a number of letters to Mr G.

The complaint to the council

Mr G contacted the council in September and October 2007 and then made a complaint to the council. The council responded by explaining what had happened up to that point and indicating that an assessment could be made of Mr G's entitlement during the period of the overpayment if he provided some more information about his income and savings. Mr G did not provide the information. He asked for the complaint to proceed to the next stage. In response the council checked his file where details of his savings were available. The council contacted the Department of Work and Pensions to get details of his income and made an assessment based on this information. This meant that there was no overpayment but there were still some council tax arrears of £204.48. The council recognised that it had put Mr G to time, trouble and distress and compensated him by paying the arrears and making a payment to him of £100.

The Ombudsman's decision

The Ombudsman accepted this as a suitable contribution to resolution of the complaint, bearing in mind that Mr G had not responded to some of the correspondence by providing information or seeking clarification. The Ombudsman asked the council to deal with the issue of communication with Mr G. In response the council discussed with Mr G what would suit him best and agreed to provide information in MP3 format in addition to sending letters.

(Case reference confidential)



B2: Claim handling

Council failed to deal properly with benefits claim from a woman who could not speak English

Background

Ms K, who spoke virtually no English, approached the council for help with housing in July 2006. She was offered and accepted bed and breakfast accommodation on 3 July. She says she completed a housing benefit application form at that time. The council said it had no record of any application being received before September 2006, after she had moved into more secure accommodation. Because there was no housing benefit assessment, Ms K accrued arrears at the bed and breakfast accommodation amounting to £4,408.88. She was not informed by the council that these arrears were building up and assumed that the charges were being paid directly, so when she made the claim in September 2006 she did not seek backdating.

The investigation

The investigation established that the council had no system in place for notifying and following up rent arrears from bed and breakfast accommodation. A system was introduced in April 2008, and it was then that Ms K was informed of her arrears and realised that she had not received housing benefit.

During the investigation it was also established that on 3 July 2006 the council had received a signed and dated 'Bed and Breakfast Agreement and Initial Housing Benefit Claim'. There was no evidence that the council had explained that a full application for housing benefit would be needed.

The evidence suggested that the council had not issued a full benefit claim form when the initial claim form had been received, and had not informed Ms K that she was accruing arrears until after she had left the bed and breakfast accommodation. As a result, when she sought backdating of her claim she was informed that the period for making such a claim had expired.

The outcome

In recognition of the failures and the effect on Ms K, the council agreed to assess her benefit entitlement from July 2006. As a result of the backdating, Ms K's arrears were reduced to £1,123.20, the amount of rent she would have had to pay if the assessment had been done at the right time. The council indicated that it was willing to accept payment of this remaining debt in instalments. This was accepted as a suitable settlement to the complaint.

(Case reference confidential)



B3: Claim handling

Vulnerable man living in caravan — council failed to deal properly with his housing benefits claims — sold belongings to pay rent pending payment of claims

Background

Mr D had mental health problems which affected his mood and his motivation. He lived in a caravan on a bus depot and paid rent to the caravan owner. He made claims for housing benefit in June 2005. The council wanted confirmation of Mr D's address. Information about what happened and what decisions were made about Mr D's applications was unclear. It appeared that the council decided he was not living in the caravan but there was no evidence that he had been asked to provide additional evidence or informed of the any decisions.

What happened

There was evidence of a new application being made in December 2006. There was also correspondence from the Citizens' Advice Bureau complaining about the service Mr D had received. There was no response to this complaint. Apart from a further internal memorandum seeking confirmation of the address, the claim was not progressed.

In December 2007 Mr D presented a further claim form. He also made a request for the benefit to be backdated to December 2006. He was accompanied this time by a social worker from the Community Mental Health Team. He informed the council that he had paid his rent from savings. In January 2008 the council processed the claims dating back to January 2005 and sent Mr D notifications. After some additional enquiries the council backdated his housing benefit to June 2005 and his council tax benefit to December 2006.

Outcome

In recognition of the time and trouble that the delays caused Mr D the council agreed to make a payment of £200.

(Case reference confidential)



B4: Claim handling

Complaint brought by advice agency – complainant with physical and mental health problems – council failed to deal properly with benefits claims, requests for backdating and notifications of overpayments

The complaint

An advice agency complained on behalf of Miss H about the way the council dealt with her housing and council tax benefits claims, in particular that the council:

- failed to properly notify Miss H of an overpayment and her rights of appeal;
- recovered alleged overpayment at an unreasonable rate;
- delayed unreasonably in assessing a claim; and
- failed to consider a request for backdating of a claim.

Miss H had been diagnosed with breast cancer and was suffering from depression. She was considered by the agency worker to be at risk of suicide.

Notification of overpayment

Miss H was claiming the care component of Disability Living Allowance (DLA). After a period of employment she lost her entitlement to this allowance. This had a significant impact on her entitlement to housing and council tax benefits. The council assessed her claims in the light of this and concluded that she had been overpaid £680 housing benefit and £123 council tax benefit. The notification that the council sent Miss H referred to her “change in financial circumstances” but with no further explanation, contrary to the relevant regulations which state that when a council considers that benefits have been overpaid it must notify the claimant and provide the reason why there is an overpayment. Miss H did not appeal the decision on the overpayment but did appeal the decision made by the Department of Work and Pensions (DWP) to remove her DLA entitlement. In response to a request to suspend the recovery of overpayment pending the outcome of the appeal regarding the DLA, the council agreed to suspend recovery for three months.

Rate of recovery of overpayment

When the council began recovering the overpayment, it did so at a rate of £22 per week. This was an increase from £9 a week and there was no evidence that the council had sent Miss H proper notification of this. The increased rate put Miss H under pressure as she was by this time not employed and was relying on invalidity benefit. The council did, following enquiries, reduce the level back to £9.15 per week. It also agreed to change its procedures to ensure that claimants are properly notified of such changes.

Delay in assessing claim

In November 2007 the council cancelled Miss H's benefits because she had not provided wage slips for the period from December 2006. Miss H contacted the council and, over the following weeks, provided slips covering January, May, June, July, August, October and November 2007; bank statements for December 2006 to January 2007 and a note from her employer saying it had not been able to provide information because of a change in its wages department.

Miss H asked the council to review its decision to cancel the claim in the light of the information she had provided. The notification that the council sent refusing this request said that she had not provided the information requested. It did not mention that she could appeal to a tribunal, nor did it apparently consider whether its request for information was reasonable in the light of the information that she had provided. In addition, the DWP had provided information confirming Miss H's wages for the relevant period. When this was drawn to the council's attention it agreed to assess Miss H's entitlement for this period.

Miss H made a new claim in June 2008. There was further confusion about alleged overpayments, entitlements and repayments which caused confusion to Miss H and her adviser about what she was entitled to, what she owed and what decisions she could appeal.

Request for backdating

The request for backdating was made by Miss H in June 2008. The council accepted that it had overlooked this request when it assessed the claim in July 2008. The decision on backdating was made in September 2008.

Remedy

The council agreed to:

- provide new notifications of overpayment decisions with rights of appeal;
- clarify what amounts were outstanding and what she had paid to reduce these;
- reconsider some of the assessments in the light of all of the information available; and
- pay Miss H £150 for the failures identified and the confusion caused.

(Case reference confidential)



B5: Advice and assistance

Young woman left local authority care – complaint about housing benefit – positive response from council

D was 18 years old and applied for housing benefit after leaving local authority care. She was living in supported lodging provided by the Young People's Support Service. She received £80 a week for a place on an apprenticeship scheme. She made a complaint to the Ombudsman when she was informed that she would not receive full housing benefit. She was concerned that she would be unable to afford to continue with the apprenticeship.

In response to notification of the complaint the council was very positive. It arranged for a benefits adviser to meet D and her personal adviser to explain what her benefits entitlements would be. The Ombudsman and the complainant welcomed the council's approach and the complaint was resolved very quickly.

(Case reference confidential)

