

Case 200502190: Glasgow City Council

Introduction

1. On 9 November 2005 the Ombudsman received a complaint from a council tax payer in Glasgow (referred to in this report as Mr C) that Glasgow City Council (the Council) had mishandled their demands of him for payment of council tax.

2. Mr C identified four aspects of his complaint namely:

(a) in four out of five fiscal years the Council had requested more council tax than he was required to pay. The amount of overpayment in each of those years varied but totalled £209.17;

(b) the Council failed to notify or reimburse Mr C until he queried a final demand in June 2005 for the current (2005/06) fiscal year;

(c) in issuing the final demand for a current shortfall of £23.92 the Council failed to recognise he was in credit for a greater amount; and

(d) the Council failed to explain the reasons for Mr C's overpayment and to apologise for their previous failure to disclose the overpayments.

3. Following the investigation of all aspects of this complaint, I found:

(a) Upheld, see paragraph 23;

(b) Upheld, see paragraph 24;

(c) Upheld, see paragraph 25;

(d) no finding, see paragraph 26.

4. The Ombudsman recommends that the Council issue a written apology to Mr C and that they inform her of specific measures they intend to introduce to avoid recurrence.

Investigation and findings of fact

5. The complainant provided me with his correspondence with the Council. Additionally a written enquiry was made of the Council. Mr C was given the opportunity to comment on the Council's response to my enquiry. Both Mr C and the Council commented on an earlier draft of this report with proposed findings.

6. Mr C is a pensioner and moved into his present flat about five years ago. Customarily he paid his council tax in person in ten instalments at the Council's local housing office until the Council's housing stock was transferred in March 2003. Thereafter he paid at the local post office. For the past five years his total council tax liability has been: 2000/01 £1024.49; 2001/02 £1078.31; 2002/03 £1115.15; 2003/04 £1154.81; and 2004/05 £1184.80. Until 13 June 2005 he believed all of these accounts to be in balance.

7. In February 2005 Mr C was informed that his council tax liability for the fiscal year commencing on 1 April 2005 was £1213.92. For those paying in instalments, the Council required a first payment of £124.92 in April 2005 followed by nine payments of £121.00 each month from May 2005 through to January 2006.

8. On 5 April 2005, Mr C made an initial payment of £101.00 for 2005/06 and followed that up with a second payment of £121.00 on 3 May 2005.

9. Since Mr C was not behind in payments when reminders were sent out in May, he was not reminded at that time that there was a shortfall of £23.92 in his April payment. The Council, however, sent out a final reminder notice on 8 June 2005. By then Mr C had paid his third instalment bringing his total payments in 2005/06 to £363. The final reminder informed Mr C that he was due to pay £245.92 but that there was a shortfall of £23.92. The notice stated that if that sum was not paid within seven days Mr C would lose the ability to pay by instalments and the entire balance (£991.92) would have to be paid by 22 June 2005. On 13 June 2005, Mr C attended the Council's council tax office and made a payment of £23.92. He said that while the officer to whom he spoke accepted that he was not in arrears at the time the final demand was issued, he had missed the monthly cut-off date which the Council operates. Mr C also learned at that visit that he had in fact overpaid council tax in previous years. This was apparently made up of £34.35 for 2000/01; £16.62 for 2001/02; £115.00 for 2003/04; and £43.20 for 2004/05. Mr C had had no previous intimation that any of his previous council tax accounts were in credit.

10. On 21 June 2005 the Council sent a cheque to Mr C for £209.17. No explanation was given for the overpayment nor was an apology tendered for the delay in repayment.

11. Mr C wrote to his local councillor (Councillor 1) on 28 June 2005. He complained that he had received a final reminder that council tax was outstanding in 2005/06 when on 8 June he had paid £363 for the current year and when it transpired that he had overpaid a total of £209.17 in previous years. He asked six questions:

- (a) why, if his April 2005 instalment was underpaid he was not notified until June 2005?
- (b) why did that notification come as a final demand?
- (c) why, when he was in credit of £209.17 the Council required the whole amount for 2005/06 by 22 June 2005 rather than allowing him to continue paying the account by instalments?
- (d) why, if he had overpaid in four out of the five previous years he had never previously been notified?
- (e) why previous overpayments were not credited in the following year?
- (f) why the Council had removed the facility to make council tax payments locally to cashiers who could instantly advise of any mistakes in payment?

12. Councillor 1 subsequently received a response dated 13 July 2005 from a Senior Revenues Officer in Finance Services (Officer 1). This letter addressed points (a) and (b) above but did not deal with (c), (d) and (e). In respect of point (f) Officer 1 advised that there were alternative methods of payment available to Mr C but that with the transfer of housing stock to Glasgow Housing Association (on 7 March 2003) payments of council tax could no longer be made at local centres as the Glasgow Housing Association did not have access to the council tax system. Officer 1 confirmed that the final reminder notice of 8 June 2005 had been cancelled and asked that Councillor 1 convey Finance Services' apologies for any inconvenience or upset the matter may have caused Mr C. Councillor 1 forwarded that letter to Mr C on 14 July 2005.

13. On 16 July Mr C wrote again to Councillor 1 accepting that his first payment in April had been less than the sum listed, which he had put right. He still, however, wanted to know why he was sent a final reminder when, with the £209.17 overpayment in previous years, he was in fact in overpayment to the Council of £185.25; why the overpayments had not been disclosed earlier' and why the Council's screen management system failed to show the overpayments. He requested a meeting with Officer 1 which took place in August 2005.

14. According to the complainant he was told by Officer 1 at the meeting that whereas it was Council policy to pursue underpayment, overpayments were ignored unless the person overpaying asked for a refund. Mr C was also concerned that the overpayments were 'inked in' on paper copies of printouts rather than appearing on the screen management system. Subsequent to the meeting, Mr C wrote again to Councillor 1 on 30 September 2005 reporting that *The Herald* newspaper had carried an article on 26 August 2005 recording that superfluous payments of council tax had totalled £1,408,177 in 2004/05.

15. Councillor 1 took this up with the Director of Financial Services and informed Mr C by letter of 31 October 2005 that:

'The Director of Financial Services has advised me that procedures are in place to identify overpaid accounts and refund these sums to the taxpayer as quickly as possible. Unfortunately, you had been misinformed that sums are only refunded on application by the taxpayer, and the Director apologises that the overpayment on your accounts was not re-allocated and refunded earlier.

Financial Services are currently investing in a new Council Tax computer system and, as a result, procedures for issuing follow-up where overpayments exist in previous years are being reviewed to try to prevent a re-occurrence.

It is not the Council Tax Office's current practice to issue annual statements to taxpayers however, this procedure may change in the future once the new system is operational'.

16. Mr C was not happy with that response and complained to this office on 6 November 2005. He was aggrieved that the Council had deprived him of approximately £50 per annum over four years in collecting more council tax than he was due to pay. He was aggrieved also that the overpayment had not been

disclosed until he had questioned the Council's accounting and that he was sent a final demand for immediate payment of his current council tax when in fact he had previously overpaid £209.17. He considered that the Council should follow the practice of banks and the Inland Revenue in sending an end of year statement showing under or over payment, allow council taxpayers to see on request a monthly statement in recognisable balance sheet form, and restore local connection points for council tax where taxpayers can pay as well as enquire about their up-to-date position.

17.I considered that since Mr C had apparently fully pursued the matter with the Director of Financial Services that the complaint was not premature and warranted investigation. I wrote to the Council on 17 November 2005 summarising Mr C's contact and asked for their comments. The Council's comments were provided by letter of 22 December 2005. The Council stated that:

- (a) Their records indicated that the overpayment arose because Mr C had voluntarily overpaid in his monthly council tax bills. At no time had the Council requested this nor did Mr C advise that he was doing this.
- (b) The Council Tax Office had procedures in place where periodic checks of overpaid accounts were investigated. If the overpayment was genuine, monies were either refunded or transferred to outstanding accounts. They stated that, unfortunately, in Mr C's case these overpayments were not realised.
- (c) On checking overpayments, as the collection of council tax is year specific with follow-up notices being issued to predetermined timetable, overpayments on previous years were not highlighted prior to the issue of follow-up notices for the current year. The Director of Finance had previously informed Councillor 1 that the new council tax computer system would highlight overpayments in prior years before the issue of follow-up notices. It is planned that the new system will be introduced in mid 2006.
- (d) The reason why Mr C was given 'inked in' copies of his council tax statement was because the print-out showed nil balances on the years that were previously overpaid. This was because the overpayments had been refunded to Mr C causing a zero balance to show on the computer. Therefore, the member of staff wrote in the amount of the overpayment

for each individual year on the print-outs for ease of reference for Mr C.

18. The Council also confirmed that the transfer of former council housing stock to the Glasgow Housing Association had led to the withdrawal of the facility to pay Council bills at their offices. The Council's records showed that Mr C made payment of council tax by Quickcard via the Post Office. They stated that, in addition to this method, Mr C could also pay his council tax by telephone using a credit/debit card, via the internet, bankers standing order, direct debit, at Paypoints or direct to the Council's Collection Office in central Glasgow. They suggested that to ensure correct monthly instalments Mr C might wish to consider paying by Direct Debit.

19. Finally the Council stated that Mr C had attended a meeting with two senior officers from the Council Tax Office in August 2005. They said that a full explanation of the circumstances was given to Mr C and an apology was offered for the inconvenience and upset caused by this matter. At the close of the meeting Mr C indicated that he was satisfied by the explanation given. In addition, Mr C was provided with a contact name and direct telephone number if he wished to discuss any further points. They had had no further contact.

Mr C's comments

20. Mr C commented on the Council's response in a letter of 20 January 2006. He stated that often because the initial payment of the ten payments in a year is different from the subsequent nine, he was not aware that he was overpaying. At his interview he had stressed that this could be avoided by an annual statement being sent as is provided by Inland Revenue and other public and private finance collectors. He considered the human error in his case was not a 'one off' but was a problem of the system (paragraph 13). He did not consider that periodic checks solved the problem and believed one priority of the new system should be to issue yearly statements.

21. Mr C considered that the 'inking in' of overpayments defeated the purpose of computerisation. He personally had no problem with paying at his Post Office, but there was an organisational problem in the delay in registering payments (paragraph 8). He regretted the abandonment of the system of in-house collection which had occurred with the housing stock transfer. Finally, Mr C considered that the Council should follow other respectable financial institutions in issuing end-of-year statements to every taxpayer indicating the exact state of the taxpayer's account and that they should devise a system whereby, if a taxpayer could

produce a receipt confirming a payment, that receipt should be accepted as correct on the date of payment.

The Council's response to the draft report

22. The Council commented extensively on an earlier draft of this report and asked that I reconsider my findings. They remained of the view that they had not 'demanded' more Council tax in any fiscal year than Mr C had required to pay (head (a)) and they requested a further explanation. With regard to head (b) they pointed out that they had a system in place to review and refund overpayments but could find no obvious reason why Mr C did not receive a refund earlier. They had refunded the overpayment quickly and had advised Mr C of an alternate means of paying his council tax in the future. With reference to head (c) they stated that for recovery purposes Council tax legislation required them to treat each tax year discretely. However, in installing a new computer system from June 2006, where a final demand will be issued for the current year, there would be an automatic check of accounts against previous years. Additionally the new system would address the issue of an annual initial demand notice being able to identify overpayments in previous years.

Conclusions and Recommendations

23. I can readily understand Mr C's annoyance that the Council were prepared to issue him with a final demand because he had underpaid £23.92 when they owed him £209.17. I do not consider that Mr C 'volunteered' to pay more than he had to in Council tax, though he may have inadvertently paid more than he should have done as a result of being unable to check current balances at the payment point. While the Council argue that they are required by statute to treat each Council tax year separately, I believe that that does not exonerate them from informing a council taxpayer of earlier overpayments and reducing a current demand by the amount of earlier overpayments. Not to have identified the overpayments earlier was in my view maladministration, and by not crediting in subsequent years the Council were in my view demanding more than Mr C should have paid (head (a)). I therefore uphold this head of complaint.

24. It is a fact that while the Council might have a system in place for reviewing and refunding overpayments it failed in this case over a number of years. The Council clearly only reimbursed Mr C after he raised matters with them. I regard that as an administrative failure. I therefore uphold head (b).

25. It is also in my view an unsatisfactory state of affairs to issue a final demand to

Mr C for the current year for the sum of £23.92 when they owed him more than eight times that amount. I, therefore, uphold head (c). I am pleased to note that the Council anticipate that their new system will include measures to avoid recurrence. Mr C is concerned that it often takes several days between payment and clearance before a payment is validated on the computer. That is, however, a banking or money transfer issue rather than a matter of maladministration and could be avoided by paying by direct debit.

26. I have concluded that Mr C did not necessarily volunteer to pay the Council too much in several years, though he may inadvertently have done so. I do not consider that they alone could fully explain the circumstances. The Council said they apologised orally for their previous failure to inform Mr C of his overpayments. I make no finding on head (d).

27. The Ombudsman recommends that the Council issue a written apology to Mr C and that they inform her of the specific measures they intend to introduce to prevent recurrence of the problems experienced by Mr C. The Council have indicated that they are prepared to accept these recommendations.

28 March 2006

Explanation of abbreviations used

Mr C	The complainant
the Council	Glasgow City Council
Councillor 1	Mr C's local councillor
Officer 1	A Senior Revenues Officer in Finance Services at the Council