

Scottish Parliament Region: Mid Scotland and Fife

Case 200500163: Fife Council

Summary of Investigation

Category

Local Government: Housing; Complaints Handling

Overview

This complaint concerns dissatisfaction with the handling of a complaint about a decision to refuse an application for payment under the Discretionary Housing Payment scheme.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) two steps of the investigation process were carried out by the same Council employee (*not upheld*);
- (b) the Council failed to provide Mr C with details of the changes in legislation that affected his application (*not upheld*);
- (c) the Council failed to address Mr C's complaint that the Disability Living Allowance should not be taken into account in determining the application (*upheld*); and
- (d) the Council failed to provide Mr C with the correct information about their complaints procedure (*upheld*).

Redress and Recommendations

The Ombudsman recommends that Fife Council apologise personally to Mr C for the failings identified in this report.

Fife Council accepts the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 28 October 2005 the Ombudsman received a complaint from a man (referred to in this report as Mr C) against Fife Council (the Council). Mr C complained that the Council inadequately addressed his complaint about their decision to reject his application for a Discretionary Housing Payment and also that the Council failed to advise him about their complaints procedure.

2. I have investigated Mr C's complaints that:
 - (a) two steps of the investigation process were carried out by the same Council employee;
 - (b) the Council failed to provide Mr C with details of the changes in legislation that affected his application;
 - (c) the Council failed to address Mr C's complaint that the Disability Living Allowance should not be taken into account in determining the application; and
 - (d) the Council failed to provide Mr C with the correct information about their complaints procedure.

Background

3. A Discretionary Housing Payment is a payment that can be made by the Council, when they calculate (from a financial statement provided by the applicant) that a household's income is insufficient to cover housing costs and essential expenditure.

4. Mr C is in receipt of Disability Living Allowance. When he lived at a previous address he also received an award from the Council of increased Housing Benefit under regulations then in place. He moved to a flat at X Street, Leven, in 1999, however, according to the Council, they have no record of his applying for the award of increased Housing Benefit at this address. Mr C told me that he disagrees with this statement as he did apply for increased Housing Benefit. Mr C subsequently moved to another address at Y Street, Leven.

5. In 2001 a new set of regulations was introduced (the Discretionary and Financial Assistance Regulations) which replaced the previous regulations governing how Councils could financially assist people in receipt of Housing Benefit or Council Tax Benefit. These new regulations introduced the Discretionary Housing Payment.

6. In 2003 Mr C applied for a Discretionary Housing Payment.

7. The Council told Mr C in a letter of 5 August 2003 that he was not entitled to a Discretionary Housing Payment. They said that there was no right of appeal against the decision, but that if he was dissatisfied a senior officer would review the decision. The letter was signed on behalf of Officer 1.

8. Mr C asked for the decision to be reconsidered. In a letter of 26 August 2003 Mr C was told it had been reconsidered by Officer 2 who agreed with the original decision. The letter was signed by Officer 1.

9. On 7 March 2005 the Council received a complaint from Mr C about their Benefits and Council Tax Section. Officer 3 responded to Mr C in a letter of 17 March 2005 rejecting the complaint. Mr C has said that he did not receive that letter.

10. Mr C's complaint was received by the Ombudsman on 15 April 2005. A complaints investigator contacted Officer 3 to tell her that Mr C had not received her letter of 17 March 2005. On 5 May 2005 Officer 3 wrote to Mr C repeating her decision and telling him how to pursue his complaint further. Mr C received a final response from the Chief Executive in a letter of 14 September 2005.

Investigation

11. The investigation of this complaint involved obtaining and reading all relevant documentation, including correspondence between Mr C and the Council. A written enquiry was made of the Council.

12. I have not included in this report every detail investigated, however, I am satisfied that no matter of significance has been overlooked. Both Mr C and the Council have been given the opportunity to comment on a draft of this report.

(a) Two steps of the investigation process were carried out by the same Council employee

(a) Conclusion

13. The letters of 5 August and 26 August 2003 were both sent in the name of and signed by Officer 1. While this may have been confusing, the contents make it clear that the two steps of the process were not carried out by the same officer. The Council has confirmed this to me. I do not uphold the complaint.

(b) The Council failed to provide details of changes in legislation that affected the application

(b) Conclusion

14. The letter of 5 May from Officer 3 said that the award in 1997 was 'under a different scheme' and the Chief Executive's letter of 14 September 2005 said 'The legislation changed over the years, and it had a wider scope when you lived at your previous address'. These statements are accurate and relevant to Mr C's circumstances. While I acknowledge they might have been fuller, the brevity does not amount to maladministration. I do not uphold the complaint.

(c) The Council failed to address the complaint that the Disability Living Allowance should not be taken into account in determining the application

(c) Conclusion

15. In his letter to Mr C of 14 September 2005 the Chief Executive said that the decision on the Discretionary Housing Payment had considered Disability Living Allowance as relevant income. This was a correct statement.

16. In response to my enquiry, the Council accepted that they could have been clearer in explaining the inclusion of Disability Living Allowance and apologised for this. I uphold the complaint to the extent that the explanation could have been clearer.

(d) The Council failed to provide correct information about their complaint's procedure

(d) Conclusion

17. The Council have told me that this was a mistake and apologised for it. I am pleased to note that after we contacted them this mistake was corrected. However, because of the initial error I uphold the complaint.

18. I am pleased to note that the Council have accepted the recommendations we have made and will act on them accordingly.

31 October 2006

Explanation of abbreviations used

Mr C	The complainant
The Council	Fife Council
Officer 1	Council employee
Officer 2	Council employee (Appeal's Officer)
Officer 3	Council employee