

## Scottish Parliament Region: Highlands and Islands

### Case 200502508: The Highland Council

#### Summary of Investigation

##### **Category**

Local government: Council Tax

##### **Overview**

The complaint concerned the way in which the Highland Council (the Council) handled the complainant's Council Tax.

##### **Specific complaints and conclusions**

The complaints which have been investigated are that:

- (a) the Council sent her confusing and contradictory correspondence (*upheld*);
- (b) the Council refused her request to pay by equal instalments spread over 12 months (*not upheld*);
- (c) the complainant failed to receive an amended bill dated 25 May 2005 nor a reminder notice dated 24 August 2005 (*not upheld*);
- (d) the complainant paid all the sums required of her but further payments were demanded (*not upheld*); and
- (e) the Council still owe the complainant £314.91 (*not upheld*).

##### **Redress and recommendation**

The Ombudsman recommends that the Council make an apology to the complainant for the shortcomings identified, reinforced by a payment of £100.

The Council have accepted the recommendations and will act on them accordingly.

## **Main Investigation Report**

### **Introduction**

1. On 8 December 2005, the Ombudsman received a complaint from the complainant (Mrs C) concerning the way in which the Council handled her Council Tax account for the property which she was renting in Town X.
  
2. The complaints from Mrs C which I have investigated are that:
  - (a) the Council sent her confusing and contradictory correspondence;
  - (b) the Council refused her request to pay by equal instalments spread over 12 months;
  - (c) the complainant failed to receive an amended bill dated 25 May 2005 nor a reminder notice dated 24 August 2005;
  - (d) the complainant paid all the sums required of her but further payments were demanded; and
  - (e) the Council still owed the complainant £314.91.

### **Investigation**

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mrs C and the Council. I have made reference to the appropriate sections of the Council Tax (Administration and Enforcement) (Scotland) Regulations 1992 (the Regulations) where necessary and, on 25 April 2006, a written enquiry was made of the Council. Their detailed reply was received on 2 June 2006.
  
4. My findings and conclusions are set out below and, although I have not included in this report every detail investigated, I am satisfied that no matter of significance has been overlooked. Because the heads of complaint are so inter-linked, I have dealt with them together but my conclusions are given separately. Mrs C and the Council were given an opportunity to comment on a draft of this report.
  
5. Mrs C said that on 31 March 2005 she took over the property in Town X on a six month lease, which was renewable monthly after that. On 27 April 2005 she was informed that £2070.99 Council Tax was due, payable over eight months. The complainant said that, although she asked to pay in equal instalments spread over

12 months as she had done before, she was refused. However, she said that she paid all the sums required of her but nevertheless received a notice dated 27 July 2005 for £7.37 arrears. Mrs C said she paid this and was, therefore, shocked to receive a final notice for £821.01 dated 12 October 2005.

6. In their response to my enquiries the Council said that, on 1 May 2005, Mrs C wrote to the Area Finance Office asking for a single occupancy reduction of 25%; that the number of months for payment be amended to ten instead of the eight quoted on the notice and that the new account be sent to her English address. The Council responded on 6 May 2005 saying that, as her main address was in England, she could not receive single occupancy for the Town X property but a second home discount application form was enclosed for her completion and return. However, they commented that it was unfortunate that at that time the officer concerned did not respond to Mrs C's request for an extension to the instalment period. They have confirmed that the Regulations specify the standard method of payment as being by ten monthly instalments and that, in December 2001, they had agreed to introduce measures aimed at making it easier for the public to pay their Council Tax. One of the measures was to offer all taxpayers the option of paying by 12 monthly instalments from 1 April of the appropriate tax year. In Mrs C's case, the collection of her tax could not start until June 2005 (her first bill only being sent on 27 April 2005, see paragraph 5) and hence there were only eight payments due. However, as pointed out, the Council failed to address this point.

7. When Mrs C returned her second home discount application on 15 May 2005, it was applied at 50% for 30 and 31 March 2005 and at 10% for 1 April 2005 onwards (the legislation affecting the amount of applicable discount changed with effect from 1 April 2005. The maximum relief was reduced to 10%). The cumulative effect of this was to reduce the total amount payable by Mrs C for tax year 2005/06 but the Council said that, as time was moving on, instalments for payment could not now begin until 1 July 2005 so, by then, there were only seven payment dates up to 1 January 2006.

8. In her complaint, Mrs C maintained that she did not receive notice of the changes to her Council Tax liability as detailed above (see paragraph 7), although the Council said they sent this information to her by letter of 25 May 2005, and she

was, therefore, becoming increasingly confused. However, from sight of the information sent to me by the Council, I am aware that Mrs C wrote on 2 June 2005 saying:

'I refer to your letter and updated account dated 25 May 2005. I am disappointed that the total discount has been calculated at 10%.'

She also asked that the Council 'recalculate the account from the usual Highland Council accounting period January to December' and goes on to make her own calculations of her monthly liability. She concluded by enclosing a monthly instalment.

9. The reply sent to her on 7 June 2005 explained the recent change in legislation (see paragraph 7) and indicated that, although she had previously indicated that her tenancy was to be for six months, Council Tax could not be restricted to this period of time and that she should maintain her payments in accordance with the bill sent to her on 25 May 2005 (that is, seven instalments of £266.27 from 1 July 2005 until 1 January 2006). Meanwhile, the instalment she sent was acknowledged, although it was not specifically brought to her attention that this was an underpayment, given that, amongst other things, she had continued to assume a 50% discount.

10. Consequently, Mrs C's Council Tax fell into arrears and Reminder/Final Notices were sent to her for small amounts on 27 July (£7.37) and 24 August 2005 (£7.40). Both notices warned that failure to pay within seven days would lead to the removal of the right to pay by instalments and the balance would become due in 21 days. Although Mrs C said that she did not understand the reason for the first of these notices, she nevertheless paid it. However, she denied receipt of the second notice and hence no payment was made.

11. It is the Council's position that Mrs C's payments were always made in arrears and were slightly underpaid. Thus, by 1 October 2005 Mrs C's liability was £1065.08 but she had only paid £1042.88 and this triggered a third reminder on 12 October 2005, which had serious consequences.

12. In terms of the Regulations, only two reminder notices can be issued in any financial year. When a third instalment is not paid on time, this results in a final

notice and removes the right to pay by instalments. At this time, the full year's outstanding balance becomes payable and this led to the demand issued to Mrs C on 12 October 2005 requiring her to pay £821.01 (that is, the full amount). Mrs C maintained that she did not receive the second notice and she was 'astonished' to receive the final demand and to learn of its consequences. She said she had faithfully paid what she was required (but see paragraph 11) and she demanded an explanation for the amount sought.

13. Mrs C followed this letter with another on 17 October 2005 to a different officer after she had contacted the Council's Finance Helpline, as she had learned during her conversation that a second reminder notice had been issued on 24 August 2005. She said she had not received such a notice. She telephoned the Helpline twice more and, as she had not received a reply to her letters (of 15 and 17 October 2005), she said she had no alternative but to travel from England to Inverness on 25 October 2005 in attempt to resolve the situation.

14. Without having made a prior appointment, Mrs C was unable to speak with the Head of Exchequer who had pre-arranged meetings for 25 and 26 October 2005. She spoke with the Local Taxation and Benefits Manager but remained dissatisfied and, therefore, on her return home on 27 October 2005, she made a written complaint to the Council's Chief Executive.

15. In their response to me, the Council said that it was at this point that correspondence began to cross. Not being aware of her most recent letter, the Area Finance Manager replied to her previous correspondence (see paragraph 13) on 31 October 2005. He gave the history of Mrs C's Council Tax account and concluded that the final notice had been issued correctly. As she remained unhappy, Mrs C followed this with further letters to the Area Finance Manager and the Chief Executive on 5 November 2006.

16. On 15 November 2005, the Head of Exchequer responded to the complainant's two letters to the Chief Executive. He concluded that her Council Tax account had been dealt with correctly, as was the final demand issued to her. He explained the situation with regard to final notices and instalment payments being waived (see paragraph 12). On 2 December 2005, he sent a further letter, which provided a reply to Mrs C's correspondence to the Area Finance Manager of

5 November 2005. By this time, the Council said that the Head of Exchequer had seen Mrs C's letter of 1 May 2005 (see paragraph 6) asking for the instalment period to be extended and noted that it had not been acted on. In the circumstances, he cancelled the final notice and arranged for a refund of the amount overpaid (although he did not quantify this amount as being £621.30) and set out the amounts Mrs C required to pay on 1 January, 1 February and 1 March 2006. Unfortunately, the refund promised with his letter did not arrive until 6 January 2006 (after 1 January 2006 instalment was due).

17. Meanwhile, a further notice was issued on 7 December 2005 requiring payment of £621.30 and, on 31 December 2005, Mrs C wrote to the Chief Executive and the Head of Exchequer saying that, as she had no idea what this demand was for, she had sent it to the Ombudsman. She was also aggrieved that the promised refund had not been paid and because of this she did not intend to pay the amount the Head of Exchequer detailed was due in his letter of 2 December 2005. Accordingly, she acknowledged that she would be in arrears once more. She gave notification that she intended to terminate her tenancy of the Town X property on 30 January 2006 (this date was later amended to 23 January 2006).

18. After Mrs C moved out of the property, she received a final account dated 25 January 2006 but she had difficulty in understanding this, as the figure given did not match her monthly instalment due on 1 January 2006. She, therefore, calculated what she thought was due and sent the Council a cheque on 1 February 2006. However, as she did not quote a reference number, the cheque was credited to the wrong account, although it was acknowledged to Mrs C. In the meantime, the computerised Council Tax system produced a reminder on 15 March 2006 and this resulted in further correspondence from Mrs C on 20 March 2006, asking to meet the Head of Exchequer to sort out the confusion, but he was out of the office giving evidence in court on the day specified. Mrs C paid the money demanded on 22 March 2006 and on the same day the Head of Exchequer responded to her letter of 1 February 2006 advising that, although she had moved out of the property on 23 January 2006, she was still responsible for the lease and, therefore, Council Tax until the end of the month. He enclosed an application form for claiming relief on an unoccupied and unfurnished property. He apologised that the money sent on 1 February 2006 had been credited to the

wrong account but that receipt of this money had reduced her indebtedness to £161.27 (but meanwhile Mrs C had paid a further amount putting her account into credit). On 27 March 2006, the Council wrote explaining what had happened and indicated that a refund would be made.

19. Mrs C wrote on 28 and 31 March 2006 querying the amount of Council Tax due for January 2006 and a reply was sent on 4 April 2006 apologising that previous explanations had been unsatisfactory and enclosing a statement of account in an effort to clarify matters. The letter indicated that a refund cheque was in the process of being issued. Unfortunately, this was not issued until 3 May 2006.

*(a) Conclusion*

20. Mrs C said she was sent confusing and contradictory information and this was indeed the case. However, Mrs C herself made presumptions about instalments and the payments she was required to make (for example, see paragraphs 7 to 11) and, because she fell into arrears (though slight), notices were issued which ultimately triggered a final notice. It was at about this time that correspondence began to cross (see paragraph 15) and confusion became inevitable. Nevertheless, I must conclude that the Council did not handle the matter well and I uphold the complaint. On two occasions they promised to make rebate payments and each time there was delay in issuing these (see paragraphs 16 and 19), and sufficiently detailed explanations were not always given in response to the matters raised by Mrs C (see paragraphs 6, 9 and 16). This is maladministration which undoubtedly caused the complainant stress.

*(a) Recommendation*

21. The Council have proffered some apology to Mrs C while corresponding with her (for example, see paragraph 19) and, in their formal response to my enquiries, they acknowledged that matters had not been handled well and offered to make an ex gratia payment of £100, in recognition of the fact that she had to write and make numerous calls to the Council in an effort to resolve matters. The Ombudsman recommends that the Council now send a fulsome apology to Mrs C for the difficulties she experienced in connection with this matter. She is satisfied that the Council's offer of a payment of £100 would sufficiently reinforce this. Although Mrs C travelled to Inverness in her attempt to resolve matters (see paragraph 13),

she did this at her own discretion and without prior appointment, therefore, no recommendation is made on this aspect of the matter.

*(b) Conclusion*

22. In a previous tenancy, Mrs C said she had paid her Council Tax by 12 equal instalments and the Council agreed that they make provision for this. However, in relation to Mrs C's specific request for the house in Town X, the collection of her tax could not begin until June and then July 2005 (see paragraphs 6 and 7), so the option of 12 payments did not exist. I cannot conclude that the Council acted incorrectly and I do not uphold the complaint. However, it is of concern to me that Mrs C's request to pay by 12 equal instalments was not specifically addressed (see paragraph 6). I am satisfied that this has been addressed as part of complaint (a).

*(c) Conclusion*

23. In their formal response, the Council advised me that they have a contractual arrangement with the Royal Mail to return all undelivered mail to the Council and it is confirmed that neither of these items were returned. Also, in relation to the amended bill of 25 May 2005, Mrs C makes reference to this in her own correspondence (see paragraph 8), so I have to conclude that it arrived. What happened to the reminder notice is unknown; Mrs C said she did not receive it but it was not returned to the Council as undelivered. I have no doubt that it was sent and, notwithstanding Mrs C's claim that it did not arrive, I do not conclude that this was as a result of any fault on the Council's part. Therefore, I do not uphold this aspect of the complaint.

*(d) Conclusion*

24. Mrs C herself calculated what she was required to pay but this was not always correct (see paragraphs 6 to 11). Accordingly, I do not uphold this part of the complaint.

*(e) Conclusion*

25. When Mrs C gave the Council notice of her intention to leave the property, the Head of Exchequer closed the account with effect from 30 January 2006 and an amended bill, dated 25 January 2006, was issued showing £314.91 outstanding (see paragraph 18). Mrs C queried this amount in her letter of 1 February 2006 and made the payment she estimated was owed (£153.64). Unfortunately this was



then credited to her landlord's account and not hers, as no reference had been given (see paragraph 18), consequently it was not deducted from the amount she owed. In the meantime, the system triggered a reminder for £314.91 on 15 March 2006, which Mrs C paid. A refund of £153.64 was eventually sent to her on 3 May 2006. In all the circumstances I do not uphold the complaint.

26. The Council have accepted the Ombudsman's recommendations and will act on them accordingly. The Ombudsman asks that the Council notify her when the recommendations have been implemented.

28 November 2006

**Explanation of abbreviations used**

Mrs C	The complainant
The Council	The Highland Council
Town X	The town in which Mrs C was renting the property
The Regulations	The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992

**List of legislation and policies considered**

The Regulations

The Council Tax (Administration and Enforcement) (Scotland) Regulations 1992