

Scottish Parliament Region: Highlands and Islands

Case 200601457: Orkney Islands Council

Summary of Investigation

Category

Local government: Policy/administration

Overview

The complainant (Mr C) complained about the way Orkney Islands Council (the Council) handled his request to reimburse his (and his wife's) travel and accommodation expenses after he turned down a job with them.

Specific complaint and conclusion

The complaint which has been investigated is that the Council failed properly to handle Mr C's request to reimburse his travel and accommodation expenses after he turned down a job offer (*upheld*).

Redress and recommendations

The Ombudsman recommends that the Council reimburse Mr C's reasonable travel and accommodation expenses. She also recommends that any correspondence sent to candidates calling them for interview either makes specific references to the circumstances when such expenses are not paid or, alternatively, refers to the enclosure, 'Interview Expenses'.

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

Main Investigation Report

Introduction

1. On 12 August 2006 Mr C complained to the Ombudsman about Orkney Islands Council (the Council)'s refusal to pay his travel and overnight accommodation expenses after he attended for interview. He complained of the way in which the Council handled his request and that they failed to respond to his initial letter, and subsequent reminder, about this.

2. The complaint which has been investigated is that the Council failed properly to handle Mr C's request to reimburse his travel and accommodation expenses after he turned down a job offer.

3. Whilst Mr C's initial complaint also raised concerns about the salary of the post for which he had applied, this was not investigated as the Scottish Public Services Ombudsman Act 2002 (Schedule 4, paragraph 8) specifically precludes investigation of, 'Action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters'. However, Section 8(3) of the Act provides that nothing in schedule 4 prevents the Ombudsman conducting an investigation in respect of action taken by a public body in operating a procedure established to examine complaints or review decisions.

Investigation

4. The investigation of this complaint involved obtaining and reading all the relevant documentation including correspondence between Mr C and the Council. On 31 October 2006 I made a written enquiry of the Council's Chief Executive and his reply was sent to me on 29 November 2006.

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

Complaint: The Council failed properly to handle Mr C's request to reimburse his travel and accommodation expenses after he turned down a job offer

6. Mr C said that in February 2006 he applied for a job with the Council and was later called for interview on 24 March 2006. Mr C said that he travelled from London to Orkney the day before and, at the Council's suggestion, his wife

accompanied him. Mr C was successful and he said that a verbal offer was made to him that day which he accepted. However, he said that when he received the Council's formal offer (including confirmation of salary) by letter of 27 March 2006, he took the view that the offer was not viable because of the salary offer. Mr C indicated that he had thought that there would have been some room for negotiation in terms of salary, but, when this was confirmed not to be the case, he advised the Council of his view that the offer was not viable by email on 3 April 2006. He confirmed this by further email of 20 April 2006.

7. Mr C wrote to the Council's Head of Personnel Services on 7 May 2006 enclosing the details of the travel and overnight expenses that he and his wife had incurred. He asked that the Council reimburse him and made the point that he had been given no information, prior to interview, that expenses were not reclaimable in the event of a job offer being refused. Mr C said that he received no response to his correspondence, so, he sent the Council a reminder on 2 June 2006. He heard nothing and, on 2 July 2006, he made a formal complaint to the Council's Chief Executive under the authority's complaints procedures. Mr C said that he received the Chief Executive's formal response to his complaint on 20 July 2006 which confirmed the Council's decision to refuse to pay his expenses on the basis that it was their policy not to pay in the event of a job candidate declining the offer of a post. The Chief Executive also apologised for the fact that the Head of Personnel Services had failed to respond to his letter of 7 May 2006 and subsequent reminder, and said that this had been an oversight due to pressure of work.

8. In my written enquiries of the Council (paragraph 4) I specifically sought their comments on Mr C's allegation that he was given no information before interview to suggest that in the event of him refusing the post after it was offered, his expenses would not be reclaimable. The Chief Executive explained that it is the Council's standard recruitment procedure to provide applicants with an information pack and, from the information I have seen, Mr C received such a pack on 6 February 2006. This included information on the recruitment process, a job description and an equal opportunities statement. If an applicant is then called for interview, the Chief Executive said that he or she would be sent a claim form for interview expenses, an information sheet to assist in completing the claim form and a street map showing the venue for interview.

9. Mr C was invited to attend for interview on 6 March 2006. The letter he received made no reference to any other documents being enclosed although it

did say, amongst other things, that, 'The Council will pay reasonable travel and accommodation expenses to you and your partner and you should make your own arrangements for getting here and for your accommodation'. Although Mr C said that he received no information advising him of a situation where his expenses would not be refundable, the Chief Executive said that the Council sent out information for about 3,000 interviews each year and staff were, therefore, very familiar with the procedures for collating such packs. He said that there had never been a complaint received that any document was missing. The document referred to (see paragraph 8) was sent to me by the Chief Executive. It was headed 'Interview Expenses' and the final paragraph stated, 'Please note that interview expenses will not be reimbursed to the successful candidate, should he/she subsequently reject the offer of employment. If a candidate withdraws at the interview, the selection panel will consider the circumstances and may withhold approval of interview expenses if the grounds are considered inadequate'. Mr C said that he did not receive such information and I note that when he submitted his travel and accommodation expenses for payment on 7 May 2006, he did so as part of his correspondence. His claim was not made on a specific form.

Conclusion

10. At the end of his interview Mr C verbally accepted the Council's offer of employment. On consideration, when he said it was confirmed to him that there was no room for manoeuvre on the salary offered, he wrote declining the post (paragraph 6). However, Mr C said that he was never given any indication, in advance of his interview, that his associated costs may not be reimbursed in the event that he turned down the job. The Council said that this warning was always enclosed when a candidate was called for interview (paragraphs 8 and 9) but the letter of 6 March 2006 sent to Mr C inviting him for interview referred to paying reasonable expenses and made no reference to any documents or further information being enclosed dealing with circumstances when expenses would not be paid. Mr C then submitted his expenses claim as part of his letter of 7 May 2006 (not on a specific form). This letter was not replied to, nor was his reminder. It was only when Mr C wrote to the Chief Executive that he received a response, apologising for the Head of Personnel's oversight in replying to him because of pressure of work.

11. I see no reason to doubt what the Chief Executive said with regard to information about interview expenses (paragraphs 8 and 9) but neither do I doubt Mr C who said that he was not told of the situation. Given that the letter

of 6 March 2006 made no reference to interview expenses other than that the Council would pay what was reasonable (paragraph 9), on balance, I conclude that Mr C was not told of circumstances when the expenses would not be paid.

12. The Chief Executive's response to Mr C's complaint did not respond directly to his point that he was not told of the circumstances when expenses would not be paid. I regard that as a significant shortcoming particularly as, for reasons set out in paragraph 11, I conclude on balance that Mr C was not given that information. I, therefore, uphold the complaint.

Recommendation

13. The Ombudsman recommends that the Council reimburse Mr C's reasonable travel and accommodation expenses. She also recommends that any correspondence sent to candidates calling them for interview either makes specific reference to the circumstances when such expenses are not paid or, alternatively refers to the enclosure 'Interview Expenses'. As Mr C ultimately received an explanation and apology for the Head of Personnel's failure to respond to his letter of 7 May 2006, the Ombudsman has no recommendation to make on this aspect of the matter.

14. When commenting on the draft of this report, the Chief Executive accepted that the Council were unable to prove that Mr C was advised of the policy that interview expenses would not be reimbursed to a successful candidate if he or she subsequently rejected an offer of employment and, in the circumstances, accepted the Ombudsman's recommendations. He confirmed that procedures had since been amended and they are to be commended for this.

23 May 2007

Explanation of abbreviations used

Mr C

The complainant

The Council

Orkney Islands Council