

Scottish Parliament Region: Central Scotland

Case 200601894: Falkirk Council

Summary of Investigation

Category

Local government: Policy/administration

Overview

The complainant (Mr C) alleged that in December 2005 Falkirk Council (the Council) erroneously refused his application to buy his Council house and that they sent him bills for council tax although he was exempt.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) in December 2005 the Council erroneously refused Mr C's application to buy his Council house (*not upheld*); and
- (b) the Council sent Mr C bills for council tax although he is exempt (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. On 19 September 2006, the Ombudsman received a complaint from Mr C alleging that on 20 December 2005, the Council had turned down his application to buy his Council house on the grounds that he had rent and/or council tax arrears. He said that this could not have been the case because he received benefit and was exempt from paying council tax. He said that as a consequence, when he eventually did manage to buy his house, he required to pay considerably more for it. Mr C also complained that despite being exempt, the Council pursued him for payment of council tax and he said that this caused him great stress and led to a deterioration in his health.

2. The complaints from Mr C which I have investigated are that:

- (a) in December 2005 the Council erroneously refused Mr C's application to buy his Council house; and
- (b) the Council sent Mr C bills for council tax although he is exempt.

Investigation

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including correspondence between Mr C and the Council and copies of Demand and Final Notices for council tax for the year 2005/06 issued on 25 January and 13 February 2006 respectively. I also made a written enquiry of the Council on 24 October 2006 and their response was sent to me on 9 November 2006.

4. 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.

(a) In December 2005 the Council erroneously refused Mr C's application to buy his Council house; and (b) the Council sent Mr C bills for council tax although he is exempt

5. In their response to me of 9 November 2006 the Council said that Mr C moved into his home on 25 May 2002 and at that time he was awarded full exemption from council tax because of his medical condition. Mr C's son lived with him but, as he was under 18, he was excluded from consideration for council tax purposes. However, when the son reached 18 on 1 February 2003, Mr C's entitlement to exemption from council tax ended as there was now

another adult in the house. The Council said that Mr C also claimed housing and council tax benefit but for a short time he did not qualify as he had capital in excess of £16,000. Although most of the time Mr C qualified for a maximum award of council tax benefit, he was liable to pay water and waste water charges, which were not covered by the benefit scheme.

6. I understand that Mr C paid his liability for 2003/04 and most of his liability for 2004/05. However, £32.35 remained outstanding on the 2004/05 account and despite reminders, a summary warrant was taken on 9 March 2005. The Council said that Mr C failed to make any payments towards his 2005/06 account and summary warrant action was taken again, on 13 June 2005, in respect of a further debt of £173.88. In each instance, a statutory 10% was added to his account.

7. In the meantime, on 13 January 2005, the Council said that Mr C told them that his son was no longer living with him (see paragraph 5) and that he could not afford to pay his council tax. The Council said that they looked to Mr C to provide a forwarding address for his son but none was forthcoming (and because enquiries of the Department for Work and Pensions (DWP) revealed that the son continued to claim Job Seeker's Allowance from his father's address), the Council took the view that council tax was due with regard to Mr C's son. As a direct result of these circumstances Mr C's council tax account was in arrears by £191.27 and correspondence to this effect was sent to him.

8. From 1 June 2005, because of a change in circumstances (the date from which the DWP advised that Mr C's son ceased to claim Job Seeker's Allowance from this address), the Council removed Mr C's son from council tax records for Mr C's address and reinstated the exemption from that date. However, when Mr C applied to buy his council house it was refused on 20 December 2005 on the grounds that:

- '(a) you have not paid the council all the rent due under your present tenancy or any other tenancy; and/or
- (b) you have not paid the Council all council tax and water and sewage charges due in respect of the above house or any other house in the Falkirk area.'

9. Mr C complained to the Council that this could not be correct because he was exempt from paying council tax (see paragraph 8) but the Council wrote to

him on 24 January 2006 explaining the circumstances which applied to his and his son's council tax (paragraphs 6 and 7), adding that his arrears were now being reduced by direct payments by the Department for Work and Pensions from his state benefit. Once his balance was clear he would have no more council tax to pay providing that he continued to occupy his house alone. Mr C later re-applied to buy his house and the sale was concluded on 10 July 2006.

(a) Conclusion

10. Mr C believed the Council was wrong to turn down his first application to buy his Council house but I do not agree. The evidence I have seen confirmed that Mr C was in arrears for council tax and accordingly, the Council were entitled to refuse his request. I do not uphold this aspect of his complaint.

(b) Conclusion

11. Mr C also maintained that as he was exempt from council tax, he should not have been sent bills requesting payment. While he was correct in so far as his medical condition gave him full exemption from payment, the same did not apply to his son. On occasion, the evidence presented to the Council by the DWP suggested that Mr C's adult son was living with him (paragraph 7). Accordingly, council tax was due and appropriate correspondence was sent. I have not seen any evidence to suggest that the Council acted improperly in this regard and I do not uphold the complaint.

23 May 2007

Explanation of abbreviations used

Mr C	The complainant
The Council	Falkirk Council
DWP	Department for Work and Pensions