

Scottish Parliament Region: West of Scotland

Case 200600109: East Dunbartonshire Council

Summary of Investigation

Category

Local government: Council tax

Overview

The complainant (Miss C) said that East Dunbartonshire Council (the Council) did not administer her council tax account correctly. When she made various enquiries about the status of her account and ultimately complained to them, they did not resolve the issue to her satisfaction and failed to advise her of their complaints procedure.

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the communication and advice from the Council was poor (*upheld*);
- (b) record-keeping by the Council in relation to council tax was inadequate (*upheld*); and
- (c) the Council's complaints handling was poor (*no finding*).

Redress and recommendations

The Ombudsman recommends that the Council:

- (i) reminds their staff to ensure the accuracy of account details before taking action on council tax accounts;
- (ii) apologises to Miss C for their errors and the confusion caused; and
- (iii) makes a payment to Miss C equal to the disputed sum of £242.00.

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

Main Investigation Report

Introduction

1. The complainant (Miss C), a first time buyer, moved into her new home in May 2005. Having agreed to pay her council tax by direct debit, she was surprised to receive a rebate in January 2006. Upon querying this rebate, she was advised that she had overpaid her council tax and that a refund was due. Miss C, therefore, cashed the refund. Miss C had further reason to query her council tax account details in March 2006, as she had received no invoice for the new tax year. During the course of her enquiries into this matter, it came to light that a mistake had been made and that the rebate should not have been paid. She was required to repay East Dunbartonshire Council (the Council) in full.

2. After challenging this decision, Miss C sought to complain about this to the Council but she said she was told that there would be no point, as the decision would not be changed. She, therefore, complained directly to the Ombudsman in April 2006.

3. The complaints from Miss C that I have investigated are that:

- (a) the communication and advice from the Council was poor;
- (b) record-keeping by the Council in relation to council tax was inadequate; and
- (c) the Council's complaints handling was poor.

Investigation

4. In order to investigate this complaint I have reviewed the written description of events from Miss C and the Council's complaints procedure. I have also corresponded with Miss C and the Council for their comments in relation to specific issues.

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

**(a) The communication and advice from the Council was poor; and
(b) Record-keeping by the Council in relation to council tax was inadequate**

6. Miss C told me that, as a first time buyer, she was on a tight budget and was keen to ensure that she paid the correct amount of council tax from the outset. As such, she contacted the Council soon after moving into her new home, in May 2005, to establish how much she would be liable for. She set up a direct debit to ensure that the correct amount was taken from her bank account automatically.

7. In January 2006 Miss C received a cheque for £241.62 from the Council for overpayment of her council tax. She queried this with the Council and received verbal confirmation that she had paid too much council tax and that a refund was, therefore, due to her. Miss C said that she double checked this with the Council employee that she spoke to, as she found it surprising that she could have overpaid. She told me that she was reassured that no mistake had been made and, therefore, banked the cheque.

Payments for the next council tax year were due to commence in April 2006 with a statement of liability due prior to this. By early March 2006, Miss C had received no statement, so she contacted the Council. She was, reportedly, advised that the bill had probably been lost in the post and that another one would be issued. By 27 March 2006 there was still no sign of the statement and Miss C telephoned again. She said that she was given no indication that there had been a problem with her account and was advised that a third statement would be sent out.

8. On 5 April 2006, having still not received the statement, Miss C telephoned the Council once more. The Council employee with whom she spoke initially had trouble locating Miss C's account, but was eventually able to advise that the Council's records showed that Miss C had moved out of her house in December 2005 and that her council tax account had been cancelled at that point. As she had not moved, as thought by the Council, Miss C would now be required to repay the £241.62, which had been refunded to her in error. She was also now in arrears with her payments for the 2006/2007 council tax year.

9. In accordance with the Local Government Finance Act 1992, should a mistake be made by the Council when calculating council tax liability, the account holder is still liable for payment of the correct invoice amount in full.

10. Miss C told me that, upon enquiring as to how such a mistake could be made, she was advised that when one of her neighbours (Mr D) had moved out of the block in December 2005, the wrong account was closed. The Council had received a letter from a solicitor, acting on behalf of Mr D, in December 2005, notifying them of the move. This letter did not contain details of the flat number, but the seller's name was thought to be that of a previous owner of Miss C's property and the account for her flat was, therefore, closed.

11. The residents and the Council use different numbering to identify the flats in Miss C's block and she suspected that the conflicting information contributed to some of the problems that she encountered. The residents refer to the flats as 0/1, 0/2, 1/1, 1/2 while the Council refer to them as A, B, C, D. The format used by the residents is in line with the Royal Mail's numbering, and the Council's records are as per the electoral role and the local Assessor's database. Miss C attributes this difference in numbering as the cause of her mail not being delivered and account information not being easily found.

12. Miss C said that she raised her concerns with the Council by telephone and was advised that, whilst it could be confirmed that a mistake had been made with her account, she would still be liable for repayment of the £241.62 and the council tax that had not been charged whilst her account was closed. This decision was reiterated by the council tax team's Supervisor.

13. At the time of Miss C's enquiries, the Council did not record the details of telephone calls as a rule. Their policy was to only make notes should a complaint be raised. The decision as to whether or not notes should be made was at the discretion of the telephone call handler. No notes were recorded following Miss C's telephone calls to the Council, even though she said she had raised complaints on more than one occasion. I am pleased to record that the Council has since changed their policy in this regard and all telephone calls are now logged and notes recorded on their system.

(a) Conclusion

14. Miss C gives a detailed account of telephone calls that she made to the Council to ensure that she was paying the correct level of council tax, that the

refund paid was correct, and to attempt to resolve the issue once it was established that her account had been closed. The Council have not kept any records of these discussions or any advice that may have been offered therein. On balance, however, I accept Miss C's account of events, as the details that she has provided of the various telephone calls that she made reflect the established facts of the case. Given the type of enquiries that the council tax team are likely to receive on a regular basis, and the fact that these will often involve conversations concerning financial arrangements, all enquiries should be logged so that a record exists of what has been advised or agreed. Whilst I commend the Council for having since introduced such a policy, in this case it is apparent that the absence of such records affected the quality of information that could be provided in relation to Miss C's case. In light of this, I uphold this complaint.

(a) Recommendation

15. As the Council has already taken action to resolve this situation for future customers by logging all telephone calls, the Ombudsman has no further recommendations to make.

(b) Conclusion

17. Miss C was liable for the payment of council tax for her property. The Council had a responsibility to ensure that the correct amount was charged for her property, however, mistakes made in these calculations do not affect Miss C's liability to pay the correct amount of council tax in full. The Council closed Miss C's council tax account, however, having received a letter from Mr D's solicitor which had a name other than Miss C's in it and did not confirm the flat number of the property being vacated. Such failure to check the details of the property being vacated is maladministration on the Council's part. Had the details been confirmed with the solicitor at the time, Miss C's account presumably would not have been closed and she would have continued to pay her council tax at the correct rate. Miss C ultimately found herself in arrears due to the closure of her account.

18. Following the mistake made as a result of the solicitor's letter, a number of errors and oversights appear to have contributed to the general confusion surrounding Miss C's council tax account. The Council failed to identify that no council tax was being paid for one of the properties in the block; a refund was dispatched to Miss C, despite the fact that the name on the solicitor's letter was not hers and; the cheque was mailed to an address which the Council

presumably thought was vacant, given the reason for the payment. This series of errors and the fact that no records were kept of customer telephone calls was poor and again amounts to maladministration. I, therefore, uphold this part of the complaint.

(b) Recommendation

19. The Ombudsman recommends that the Council reminds their staff to ensure the accuracy of account details before taking action on council tax accounts.

20. The Ombudsman also recommends that the Council apologises to Miss C for their errors and the confusion caused.

21. Miss C was diligent in trying to ensure that she paid the correct amount of council tax, yet the Council continued to provide reassurances that there was no problem with her account, despite several requests for her details to be checked. The time and trouble that Miss C went too to resolve this issue should be recognised.

22. The Ombudsman, therefore, recommends that the Council make a payment to Miss C equal to the disputed sum of £242.00.

(c) The Council's complaints handling was poor

23. Having established that her account had been closed in error, Miss C was unhappy with the service that she had received from the Council. She had suspected a problem with her account since receiving the refund cheque of £241.62 in January 2006, however, she had been given several verbal reassurances by council staff that she was entitled to this money and that there were no problems.

24. Miss C said that, during a telephone call to the Council, she told the council tax team Supervisor that she would like to make an official complaint, however, she said that she was advised that this would be pointless, as the end decision would be the same. She, therefore, complained directly to the Ombudsman. The Council told me that she was asked to submit her complaint in writing to the Revenues Manager.

25. I have already commented on the Council's telephone call and complaint logging policies. Again, there is no record of the above-mentioned conversation.

26. Although the Council defended their decision to reclaim the £241.62 and back-taxes, it was agreed that Miss C's account would be suspended for two months to give her some time to pay the outstanding debt. Miss C found this to be an inadequate resolution to her complaint.

(c) Conclusion

27. The Council have a clear procedure for written complaints and this should be brought to the attention of anyone wishing to take their grievances to the next stage. The Council have advised that this was the case when Miss C enquired about submitting a formal complaint. As there are no notes of the conversations between Miss C and council staff to confirm this, however, it is impossible for me to determine what was said by Miss C and what advice was offered by the Council. I am, therefore, unable to reach any firm conclusions on this aspect of Miss C's complaint.

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

19 December 2007

Explanation of abbreviations used

Miss C

The complainant

The Council

East Dunbartonshire Council

Mr D

Miss C's neighbour

List of legislation and policies considered

Local Government Finance Act 1992