

## Scottish Parliament Region: South of Scotland

### Case 200601273: North Ayrshire Council

#### Summary of Investigation

##### **Category**

Local government: Social work, Other

##### **Overview**

The complainant (Mr C) received debt advice from North Ayrshire Council (the Council), and complained that they had not advised him properly about the actions of one of his creditors.

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

The complaints which have been investigated are that:

- (a) the Council's debt advice service gave inadequate advice in relation to one of Mr C's debts (*not upheld*); and
- (b) the Council failed to respond correctly to a complaint about this matter (*not upheld*).

##### **Redress and recommendations**

The Ombudsman has no recommendations to make.

## **Main Investigation Report**

### **Introduction**

1. The complainant (Mr C) approached North Ayrshire Council (the Council) for advice on managing his debts in August 2001. He received advice at various times until his case was reviewed and closed in June 2005. During this period, Mr C experienced considerable difficulties with one of his creditors, a financial services company (the Company). He complained formally to the Council in August 2006 about the advice he had received in relation to this debt and, after completing the Council's complaints procedure, referred his complaint to the Ombudsman on 28 January 2007.

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

- (a) the Council's debt advice service gave inadequate advice in relation to one of Mr C's debts; and
- (b) the Council failed to respond correctly to a complaint about this matter.

### **Investigation**

3. In order to investigate Mr C's complaint, I have reviewed correspondence between him and the Council and with the Company. I made inquiry of the Council on 18 June 2007 and they responded on 17 July 2007.

4. I have not included in this report every detail investigated but 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) The Council's debt advice service gave inadequate advice in relation to one of Mr C's debts**

5. Mr C approached the Council for advice in relation to his financial situation in August 2001. The Council explained the process undertaken by their advisers when such an approach is made. Firstly, they contact the client's creditors to seek information about the debt, then they consider debt management options with the client, and finally, they work with the client to ensure that their chosen option is implemented. All debt repayment arrangements of this sort are voluntary and creditors have no obligation to cooperate in them. In Mr C's case, they followed this sequence and, when they contacted creditors to seek information about the debts, they also requested the freezing of interest charges. The Company supplied an outstanding balance of £9080.83 for Mr C's account with them on 29 August 2001 and said that they

would consider suspending or reducing interest on receipt of a financial statement. However, the Company did not confirm whether they would be prepared to freeze or reduce interest on the account. All other creditors complied with the agreed repayment programme, including the freezing of interest.

6. When all Mr C's creditors had replied to the Council, a repayment programme was set up with Mr C's consent and this included an agreed monthly repayment to the Company. The repayment schedule was initiated from October 2001.

7. In the course of 2003, Mr C was experiencing difficulty in managing his account with the Company and the Council's debt advice service wrote to them a number of times to intervene on his behalf. On three occasions, they asked the Company to consider freezing interest on Mr C's account but they received no response. The Council's correspondence with the Company shows that they had difficulty in securing the Company's co-operation in the debt repayment. Indeed, the Company had refused to accept Mr C's mandate for the Council to act on his behalf. The Company continued to deal directly with Mr C and the Council relied on information from him about the state of his account.

8. The Council closed Mr C's case file in June 2005, but he contacted them again on 21 February 2006 to ask about an apparent increase in the debt he owed to the Company despite regular repayments. He said that it had increased from £6421.86 in October 2003 to £9961.59. The Council responded to his concerns on 23 February 2006 and explained that the figure he had assumed to be his balance in October 2003 had, in fact, been the arrears on this account. They also explained that the increase in his arrears probably resulted from the shortfall between the monthly amount agreed in the repayment schedule of October 2001 (£83.34) and the amount for which he was originally liable (£318.18). Given the Company's refusal to agree to the suspension of interest payments, Mr C's debt had, indeed, increased between 2001 and 2006.

9. In responding to Mr C's complaint about their handling of his case, the Council noted that correspondence sent to him from the Company between 2003 and 2005 had shown that his arrears were increasing. They acknowledged that this should have been pointed out to him. Mr C's

correspondence with the Company from this time also shows that he was not aware that they had not agreed to a suspension of interest on his account.

10. The Council expressed their concerns about the operations of the Company, including the manner of their dealings with them and with Mr C and the level of charges levied on Mr C's account. They offered to assist Mr C if he chose to make a complaint about them to the relevant authorities.

*(a) Conclusion*

11. It is clear that the Council made significant attempts to persuade the Company to suspend interest on Mr C's account. It is also clear that their refusal to do so led to the situation in which he found himself in 2006 when he realised that his balance had increased since he agreed a repayment programme with the help of the Council's debt advice service. The Company were not obliged to enter into the voluntary arrangement to repay this debt which Mr C set up with the Council's help and it seems unlikely that the Council could have taken action which would have led to a different response from the Company.

12. The Company continued to deal directly with Mr C over his debt and the Council did not have access to full information about the state of his account. Indeed, the Council said to Mr C that 'neither the Debt Advisers nor yourself fully understood what was happening to your account'. However, it seems that Mr C was not made aware of the fact that his arrears were increasing or of the fact that the Company had not agreed to freeze his interest. Although he had a certain obligation to review the information sent to him by the Company about his account, the Council acknowledged in the course of responding to Mr C's complaint that they could have made the situation clearer to him. It is not certain that Mr C could have taken any action that would have improved his situation in relation to this debt, but it appears that he was not aware that the level of repayments he agreed in October 2001 was not reducing his balance.

13. In the course of investigating Mr C's complaint, the Council discovered that the debt adviser who had been working with him continued to respond to him and work on his case in the period from July 2002 to October 2003 when his case was closed. They acknowledged that this was not acceptable practice as the adviser was working without the supervision of a manager for this time. Any conclusions about whether this may have had any impact on the advice given to Mr C at this time would be speculative. However, it is very unlikely that any

further intervention would have had a material impact on the debt in question. Overall, the Council consider that Mr C received good service from them in the handling of his debts.

14. On balance, I conclude that the Council acted reasonably in relation to Mr C's debt and it seems clear that the problems associated with it were entirely due to the Company's refusal to agree more favourable terms for Mr C. It is possible that clearer advice from the Council would have given Mr C a fuller picture of the state of his account, and the Council have acknowledged this possibility. It is also probable that any misunderstandings between Mr C, the Company and the Council were not the Council's responsibility alone. I note that the Council have made improvements to the debt advice service they offer, including an instruction to advisers to be clear about the impact of creditors' decisions about freezing interest on accounts and new procedures to seek discrete confirmation by creditors of their agreement over clients' interest. They have also informed me of new measures introduced by the Scottish Government in June 2007 to address this issue. In all of these circumstances, I do not uphold this complaint and commend the Council for the steps they have taken to improve their debt advice service.

**(b) The Council failed to respond correctly to a complaint about this matter**

15. Mr C wrote to the Council on 21 February 2006 to seek information about the increase in the level of his debt owed to the Company, despite the interventions of the debt advice service. A service manager responded to this letter on 23 February 2006. Mr C said that he was not happy with this response and had written to complain about it. However, the Council has no record of such a letter and Mr C no longer has a copy due to problems with his PC.

16. Mr C complained formally to the Council about the advice he had received in relation to his debts on 23 August 2006. On 22 September 2006, he received a response to the issues he raised from a senior officer responsible for welfare rights and debt advice. He was not satisfied with this response and his complaint was then referred to the Council's Corporate Director (Social Services) who responded on 9 November 2006. Finally, as Mr C remained dissatisfied, the Council's Chief Executive responded to his complaint on 18 January 2007. This final and fourth stage of the Council's complaints procedure was removed in its revision of that procedure for complaints made after 1 October 2006.

17. In addition to his dissatisfaction with the Council's handling of his debt advice, Mr C felt aggrieved that, although his original complaint of 23 August 2006 had been addressed to the Chief Executive, he did not receive a response from him until January 2007. In his letter to Mr C, the Chief Executive explained the thinking behind a staged process, which is to seek resolution to complaints at the level nearest the service complained about and to ensure a measure of independence in the review of complaints.

*(b) Conclusion*

18. In the absence of any evidence, I cannot account for the difference of view between Mr C and the Council over the letter he sent in response to the Council's letter to him of 23 February 2006. In relation to Mr C's concerns about the time it took to receive a response from the Council's Chief Executive, I am satisfied that the Council had adopted a reasonable complaints procedure and had employed it appropriately. The Council sent Mr C a response at each stage which was timely and addressed the issues raised. I further note that the Council has now adopted a more streamlined complaints procedure which reduces the number of stages from four to three. This is consistent with the advice of the Ombudsman's Valuing Complaints initiative. In all these circumstances, I do not uphold this complaint.

19 December 2007

**Explanation of abbreviations used**

Mr C	The complainant
The Council	North Ayrshire Council
The Company	A financial services company which was one of Mr C's creditors