

Scottish Parliament Region: North East Scotland

Case 200603214: Dundee City Council

Summary of Investigation

Category

Local government: Council tax

Overview

The complainant, referred to as Mrs C in this report, complained about the delay by Dundee City Council (the Council) in notifying her of an outstanding council tax debt of £3,231.96. She remained unhappy with the Council's final response to her complaint and asked me to investigate the matter.

Specific complaints and conclusion

The complaint which has been investigated is the delay by the Council in notifying Mrs C of a council tax debt (*not upheld*).

Redress and recommendations

The Ombudsman recommends that the Council apologise to Mrs C for the delay in pursuing the debt between June 2002 and August 2005 and consider an appropriate payment arrangement to recover the debt properly due.

The Council have accepted the recommendation and will act on it accordingly.

Main Investigation Report

Introduction

1. In January 2007, Mrs C contacted the Ombudsman to complain about the delay by Dundee City Council (the Council) in notifying her of a council tax debt of £3,231.96. She received a demand for this debt in April 2006. She told me that the period from August 2000 to April 2006, when the Council did not act on the alleged debt, was an injustice, with the demand arriving at a particularly difficult time, when she was grieving from the death of her husband and trying to cope with the stress of her mother's death.

2. The complaint from Mrs C which I have investigated is the delay by the Council in notifying Mrs C of a council tax debt.

Investigation

3. In order to fully understand the sequence of events leading to the issue of the council tax demand in April 2006, I reviewed correspondence between Mrs C, her representatives and the Council. I discussed the case with Mrs C and also made enquiries of the Council on 20 April 2007 and 14 May 2007 and received responses on 2 May 2007 and 4 June 2007.

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

Background

5. Between 1995 and June 2001 Mrs C was the owner of a property (Property 1) which she rented mainly, but not always, to two families.

6. In February 1998 the Tayside Valuation Joint Board advised Mrs C that, despite being occupied by two families, Property 1 would remain classified as one dwelling house in terms of council tax legislation. The significance of this was that she, as the owner (not the tenants), was liable for council tax.

7. In August 2000, Mrs C's MSP contacted the Council regarding the council tax liability for Property 1. The Council advised him that Property 1 was insufficiently divided to be classed as two separate properties. The property would, therefore, remain classified as one property for council tax purposes and, accordingly, the owner would be held liable for council tax. Any council tax

payment books issued to Mrs C's tenants were subsequently cancelled, and no council tax payments were made by her tenants to the Council.

8. In April 2006 Mrs C received correspondence from the Council's Debt Management Team advising her of an outstanding council tax debt of £3231.96. This debt resulted from her liability for Property 1 during the period of her ownership.

9. Mrs C told me that, in the absence of any correspondence from the Council between 2000 and April 2006, she had assumed the matter had been resolved in her favour.

Complaint: The delay by the Council in notifying Mrs C of a council tax debt

10. My initial enquiry to the Council on 20 April 2007 asked for a copy of the Council's complaints correspondence, together with any other paperwork related to Mrs C's council tax liability and subsequent complaint. The Council responded by providing documentation which indicated little activity on the case between November 2001 and April 2006.

11. Further enquiries were then made of the Council in order to establish the action taken by them in the lead up to them advising Mrs C of the debt in April 2006. I confirmed that between March 1998 and June 2000 the Council had, in fact, written to Mrs C on eight occasions in connection with her council tax liability. Thereafter, contact became less frequent, with the Council writing to Mrs C in August 2001, September 2001 and June 2002 regarding the outstanding debt. The Council then failed to pursue the debt with Mrs C until a further demand was issued in August 2005, with the final demand being issued in April 2006.

12. I found that the Council's Revenues Division introduced new computer software to help manage council tax debts in December 2000. As part of the planned process for this change, a decision was made to temporarily suspend recovery action on outstanding debts. This resulted in a delay in pursuing the debt between June 2000 and August 2001, when the Council again contacted Mrs C about her outstanding council tax debt.

13. In the absence of any payment being made by Mrs C, a Notice of Summary Warrant was issued to her in September 2001, with the debt being passed to the Sheriff Officer in November 2001.

14. Following a re-assessment of the council tax banding in May 2002, the Council issued an amended account to Mrs C in June 2002. From my examination of the Council's records, I could see no further contact with Mrs C regarding the unpaid council tax debt until August 2005, when a further demand was sent to her.

15. I asked the Council to clarify why they had not pursued the debt between June 2002 and August 2005. They told me that, as Mrs C had sold Property 1 in July 2001, there was no ongoing council tax liability after the date of sale. Therefore, no further correspondence was sent to Mrs C in relation to the liability for previous years until August 2005 when a further demand was sent to her. In April 2006 a subsequent further demand relating to the liability was issued as a result of new procedures implemented by the Finance Department of the Council. Mrs C did not respond to the request for payment, therefore, later in April 2006, the Council issued a demand for the full amount of the outstanding debt, £3,231.96.

16. The Council explained that, due to the volume of old debts, it was not possible to tackle all outstanding debts at one time, therefore, they prioritised the outstanding work to allow them to pursue the debts in a systematic manner. This meant that Mrs C's debt was not pursued until the new procedures were rolled out to capture old debts in April 2006. The Council acknowledged that 'unfortunately, there have been delays built in to pursuing Mrs C for the balances outstanding' but also noted that as the debt was still outstanding they would be pursuing it.

Conclusion

17. In considering the events of this case, I am mindful that the Council has a statutory duty to collect council tax and to pursue the debts of those who do not pay. I am conscious also, that all council tax payers benefit from a robust approach to council tax collection.

18. The Council were correct to notify Mrs C of her council tax liability in this case and, indeed, had a legal duty to do so. The Council cannot, therefore, be faulted for their commitment to sound financial management. Unfortunately,

however, they were let down by a flawed approach in pursuing the debt, which resulted in a delay in issuing further demands for the outstanding debt between June 2002 and August 2005.

19. I am mindful that the introduction of new debt management procedures in December 2004, and the subsequent need to prioritise outstanding work, may have, in part, contributed to the delay in pursuing the debt. However, considering the length of the delay (three years), I believe that, with appropriate implementation planning and assessment of risks, this process could have been better managed.

20. Mrs C was understandably concerned to receive the demand for payment in April 2006 and I recognise that the demand arrived at a particularly distressing time for her. The fact remains, however, that this is a debt that she was liable to pay and, but for a delay in the Council pursuing the debt, the matter may have been resolved at a much earlier stage.

21. What I have investigated is that the Council delayed in notifying Mrs C of the debt. In this regard, I note that Mrs C was indeed notified in good time of her liability and the Council wrote to her several times over a two year period, in connection with her council tax liability. I have considered carefully the difference between a delay in notifying the debt and a delay in actually pursuing the debt, after liability was notified. While it is clear that the Council delayed in pursuing the debt, I have seen nothing to suggest that the debt was not properly notified or that Mrs C was not aware of her liability. On this basis, therefore, and taking account of the evidence I have examined in this case, I do not uphold this complaint.

Recommendation

22. Nevertheless, it is clear that there was a delay in pursuing the debt between June 2002 and August 2005. In view of this, the Ombudsman recommends that the Council apologise to Mrs C for this and consider an appropriate payment arrangement to recover the debt properly due.

23. The Council have accepted the recommendation and will act on it accordingly. The Ombudsman asks that the Council notify her when the recommendation has been implemented.

Explanation of abbreviations used

Mrs C

The complainant

The Council

Dundee City Council