

Report

on an investigation into complaint nos
04/B/10719 & 04/B/12532 against
Northampton Borough Council

21 November 2005

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Key to names used

Mr Montgomery	Complainant
Miss Montgomery	Complainant
Mr Wood	Complainants' representative
Officer A	Housing Benefit Team Leader
Officer B	Rent Income Manager
Officer C	Liaison Officer, Customer Services
Officer D	Homelessness Team Leader
Officer E	Head of Housing, Social Policy and Care Services
Officer F	Senior Housing Needs Officer

Report summary

Homelessness/housing allocations/housing benefit

The Council misdirected itself with regard to the status of a housing benefit claim by Mr Montgomery (not his real name). This resulted in Mr Montgomery being evicted from his Council tenancy. The Council also failed to update his rent arrears account, as a result of which his application for housing was incorrectly suspended for six months and the arrears were referred to bailiffs, causing Mr Montgomery to receive letters from the bailiffs threatening recovery action. The Council also failed to inform Mr Montgomery that his personal possessions, which had been stored by the Council, had been destroyed in a storm, causing a delay in the submission of an insurance claim, with the result that Mr Montgomery commenced his new tenancy without furniture and personal possessions.

The Council failed to assess his daughter's request for backdating of her housing benefit claim, as a result of which she was pursued for a substantial amount of money which she did not owe. The Council also sent Miss Montgomery incorrect information regarding her eligibility for housing leading to confusion and mistrust.

Finding

Maladministration causing injustice – remedy agreed.

Agreed remedy

The Council has agreed:

- a) to pay Mr Montgomery £3,500 in recognition of the eviction, for pursuing him for a debt after it had been written off and for failing to inform him of the destruction of his personal possessions;
- b) to pay Miss Montgomery £1,500 in recognition of the disruption she suffered following the eviction of her father and to write off her rent arrears; and
- c) to pay their representative £250 in recognition of his efforts to assist Mr Montgomery and Miss Montgomery.

Introduction

1. Mr Wood complains on behalf of Mr Montgomery and his daughter, Miss Montgomery in respect of the way the Council evicted Mr Montgomery from his Council flat and the way it addressed his claim for housing benefit and his subsequent application for re-housing. He also complains that the Council failed to take proper care of his possessions while they were in storage. On behalf of Miss Montgomery, Mr Wood complains that the Council failed to deal properly with her homelessness application, her application for housing and her various applications for housing benefit. Mr Wood also complains that the Council did not deal adequately with his various complaints about these matters.
2. One of the Commission's officers has met Mr Wood and interviewed officers of the Council. She also examined the relevant files. Both Mr Wood and the Council were sent a copy of the factual part of this report in draft, prior to the addition of the conclusions. Where appropriate their comments are reflected in the text.
3. For legal reasons, the names used in this report are not the real names of the people concerned.¹

Legal and administrative background

Homelessness

4. Part VII of the Housing Act 1996 states that a person is homeless where s/he has no accommodation in the UK or elsewhere in the world, which is available for her/his occupation, and which s/he is entitled to occupy.²
5. A person has a priority need for accommodation if the authority is satisfied that s/he comes within any of the following classes:
 - (a) s/he has dependent children who are residing, or might reasonably be expected to reside with her/him, for example, because the family is separated solely because of the need for accommodation; or
 - (b) s/he is homeless or threatened with homelessness as a result of any emergency such as flood, fire, or other disaster; or
 - (c) s/he, or any person who resides or who might reasonably be expected to reside with her/him, is vulnerable because of old age, mental illness, handicap or physical disability or other special reason; or

¹ Local Government Act 1974, section 30(3)

² Housing Act 1996, section 175(1)

- (d) she is pregnant, or is a person who resides or might reasonably be expected to reside with a pregnant woman.
6. The Secretary of State has issued a Code of Guidance to authorities. When exercising their functions, under Part VII of the Act, authorities are required to have regard to the Code,³ although they are not bound to follow it blindly; with good reason they may depart from its provisions. The Code refers to children under the age of 16 as dependent, together with those under the age of 19 either receiving full-time education or training or otherwise unable to support themselves.
 7. Enquiries may take some time. If the authority has reason to believe that the applicant may be homeless, and eligible for assistance, *and* in priority need, then pending its decision it is obliged to secure that accommodation is made available for the applicant and for anyone who normally resides with or might reasonably be expected to reside with her/him. This duty ceases on notification of the decision.
 8. Authorities have a general power to make reasonable charges for the provision of their own accommodation.⁴ They are also entitled to make charges to a homeless person for accommodation which they provide under Part VII of the Act, or for accommodation which they arrange for some other person to provide under Part VII.⁵
 9. An applicant has a statutory right to request an internal review of decisions made on her or his homelessness application, following which there is a right of appeal to a County Court on a point of law.

Housing allocations

10. The Council's housing allocations scheme which was in force at the time of Mr Montgomery's application states that an application will be accepted from any adult unless s/he is excluded from applying by law. The application will then be assessed under the Housing Register Points System. Points are awarded for various reasons, including sharing or lacking facilities, overcrowding, medical reasons, social and economic need, time in need, size of household, insecurity points (awarded by the Social Need Panel). The number of points which can be awarded in different circumstances is set out in Appendix A of the Council's Allocations Scheme.
11. The Scheme gives the Council the power to defer an application, if, for example, there is evidence of previous un-tenantlike behaviour or unpaid rent.

³ *De Falco, Silvestri v Crawley BC* [1980] QB 460, CA

⁴ Housing Act 1985, Section 24

⁵ Housing Act 1996, section 206(2)

Housing benefit

12. Claims for housing benefit must be made in writing either directly to the council or by completing a short form (through the local Department for Work and Pensions (DWP) office) supplied with the job seekers allowance/income support application pack and known as an NHB1(HB). This serves to register a housing benefit claim from a given date.
13. Claimants can ask for their claim to be backdated for up to 52 weeks by showing 'good cause' for failing to claim promptly.⁶
14. The housing benefit regulations set out various timescales for taking action in respect of a claim. Where further information is required following receipt of a claim, a council should make enquiries within 14 calendar days of receiving a claim. A claim should be determined within 14 calendar days of receiving all the necessary information and a claimant should be notified within 14 calendar days of the claim being assessed and payment should also be made no more than 14 calendar days after the claim has been assessed.

Investigation

Eviction of Mr Montgomery

15. Mr Montgomery moved into a two bedroomed flat in Davis House, a Council owned property, in 1997. At various times one of his sons or his daughter, Miss Montgomery, who was nearly 18 at the time of these events, shared the flat with him. Between 1997 and 2003 Mr Montgomery regularly experienced difficulty in meeting the rent and repossession action was taken against him on several occasions, leading to a possession order being granted, suspended upon payment of a small sum each month towards the arrears, together with the ongoing rent. Mr Montgomery had a history of claiming housing benefit and generally this met the rent. The arrears usually accrued when he had failed to re-apply for housing benefit or had failed to provide the evidence necessary for his claim to be assessed. On the occasions when a warrant for possession was obtained by the Council, Mr Montgomery applied to the court for an order suspending the warrant upon payment of a regular amount towards the arrears. Between July 2000 and June 2001 there were at least three hearings to suspend the warrant.
16. The Commission's officer's examination of Mr Montgomery's housing benefit file showed that the Council recognised that he needed some element of support in submitting claims and providing the correct information. The files show that on many occasions Mr Wood assisted Mr Montgomery with various forms and court

⁶ Housing Benefit (General) Regulations 1987, Regulation 72

applications, which often resolved the problem at the time. At times Mr Wood has also helped out Mr Montgomery financially.

17. By early 2003 Mr Montgomery's rent arrears had again risen substantially. In mid January 2003, a backdated payment of housing benefit of nearly £1,300 was placed on his rent account. This left the arrears at £718. At that time there was no ongoing entitlement to housing benefit because Mr Montgomery, for a number of reasons, had failed to re-apply for income support and housing benefit. Between early October 2002 and early January 2003 Mr Montgomery had been suffering from depression, as a result of which he was without any form of benefit. In January 2003 Mr Wood assisted him in claiming income support and housing benefit to the extent that a further payment of housing benefit was made to his rent account on 17 February 2003. This payment covered the ongoing rent. However, this still left arrears and court costs of over £600. In view of these arrears, on 12 February 2003 the Council applied for a warrant of eviction. The Council received notification on 25 February 2003 that the eviction would take place on 5 March 2003. At the time the warrant was applied for, although there was an ongoing claim for housing benefit, there was no claim for backdating for the period when Mr Montgomery had been without income.
18. Mr Montgomery received notification of the eviction and contacted the Council on 21 February 2003 to arrange a meeting with both the Housing Benefit section and the Rent Income section. Those meetings took place on 28 February 2003. Mr Wood accompanied Mr Montgomery to the interviews. In the Housing Benefit section they had a meeting with a Customer Services Officer at the benefits desk. The note of that meeting shows that Mr Montgomery provided a bank statement and payslips for the last two weeks in September 2002 and the first week in October 2002. The note signed by the Customer Services Officer stated "please look at my claim for the period 16/9/02 to 12/1/03". The note also indicated that Mr Montgomery had to provide his P45 within 28 days. The Commission's officer interviewed Officer A, a team leader in the benefits section. Although he had not been involved in Mr Montgomery's claim personally he explained the processes which would have been followed at the time. He confirmed that as at 28 February 2003 Mr Montgomery had an ongoing housing benefit claim in view of his entitlement to income support, but that there had been no application for backdating for the period October 2002 to January 2003. Therefore, it was correct to say that at the time of applying for the warrant it appeared that no further housing benefit was due. However, the note of the meeting on 28 February 2003 was a clear indication that on that date Mr Montgomery made a request for his benefit to be backdated. The note indicated that no further action would be taken on the request until the P45 was provided. Officer A explained that the memorandum of 28 February 2003 would have been passed to the benefits section for filing and would have been tracked on the computer.
19. On the same date Mr Wood and Mr Montgomery had a meeting with an arrears officer in the Rent Income section. The Commission's officer interviewed Officer B, the Rent Income Manager, who explained the process prior to the eviction. Officer B explained that his staff member would have advised Mr Montgomery to apply to the

court to suspend the warrant of eviction pending consideration of his request for backdated housing benefit. Officer B was aware that Mr Montgomery had made such applications in the past and so was confident that he would know how to go about the process.

20. When making his complaint to me, Mr Wood, on behalf of Mr Montgomery, explained that Mr Montgomery had gone to the court office on 3 March 2003 and had made an application to suspend the warrant. Although he had not been given a date and time for an appointment, he had handed in the form and understood that the proper process would be followed. It was not until two weeks later, when he was able to visit his former flat, (see paragraph 25) that Mr Montgomery learned that the court had in fact returned his application to Davis House because he had not filled in a section showing how much money he could offer towards the arrears should the warrant be suspended. It was for this reason that the court did not fix a date for a hearing prior to the eviction.
21. On 5 March 2003, prior to going to Davis House to supervise the eviction, Officer B went to the housing benefit section to check whether there was a housing benefit claim pending, as this would have a bearing on his decision to proceed with the eviction. He spoke to Officer C, a liaison officer in the Customer Services team, whose job was to provide a link for Council tenants between the housing section and the housing benefit section. The computer record shows that on 3 March 2003 the file was with her.
22. Officer C no longer works for the Council. However, Officer B told the Commission's officer that Officer C told him there was no backdating request and even if there were one she would be reluctant to approve it. The Commission's officer asked Officer B whether Officer C was the person who would assess a backdating request. He thought she was not. Officer B's note on the computer states:

"Prior to leaving for EVT checked with [Officer C] in HB ref any further backdating or appeal for one – was advised that even if there were a request she would be reluctant to proceed – there has not been any backdate request and no more HB due on this account."

As far as Officer B was concerned, on that morning the debt was real and there was no reason to put off the eviction. The Commission's officer asked Officer A why Officer C might have told Officer B on 5 March 2003 that there was no request for backdating. Officer A explained that if someone had looked only at the computer it would not have been apparent that such a request had been made, but if they had looked at the file it was clear that there was a further request for backdating. Officer A explained that if he had been asked on the day of an eviction for information about the current state of a claim, he would have obtained the file in addition to looking at the computer. The computer record shows that the file was with Officer C on 3 March 2003.

23. The Commission's officer showed Officer B the note of the meeting of 28 February 2003 between Mr Wood and Mr Montgomery and the Customer Services clerk and in particular the note asking for housing benefit to be backdated for the period October 2002 to January 2003. Officer B told the Commission's officer that he had not been aware until that point that there had been a request for backdating. If he had known about it at the time he said that he would have encouraged Mr Montgomery to apply to the court to suspend the warrant and he might have put off the eviction for a couple of days to enable him to do so. He explained that in such circumstances he might not have opposed the application to suspend the warrant. In an internal memorandum written in March 2004 (pursuant to Mr Wood's complaint), Officer B's manager wrote:

“Benefit Services reviewed the case at a much later date and awarded housing benefit – had this been the case on 5 March 2003 the eviction would not have proceeded, but as you will see from the second paragraph it was made clear to us that no benefit was outstanding. Mr Montgomery himself does not appear to have made any efforts prior to the eviction to resolve any Housing Benefit issues.”

24. On 5 March 2003, having clarified the HB position, Officer B attended Mr Montgomery's flat at Davis House to supervise the eviction with the bailiff. Mr Montgomery was not present, but his daughter, Miss Montgomery, was, as was Mr Wood. Officer B spoke to Mr Montgomery by telephone and was told that Mr Montgomery had been to the court to make an application to suspend the warrant. As a result the bailiff telephoned the court but was told there was no record of a visit by Mr Montgomery. In view of this information the eviction proceeded and the property was secured. The Commission's officer asked Mr Wood why he had not made an immediate application to the court to suspend the warrant. He said that by that time he thought it was too late and that there was no further action which could be taken.

Housing benefit claim

25. Mr Montgomery was not able to obtain access to his former flat until 13 March in order to recover some of his personal possessions. In the post box was the P45 from his former employer which he had requested following the meeting on 28 February. The Council's file shows that he handed in the P45 to Customer Services on 13 March 2003. By that time Mr Montgomery's HB claim had been cancelled in view of the eviction from Davis House. The computer record shows that the P45 was placed on the file on 17 March 2003. However, the file was then put away indicating that no work was required. For some reason, not apparent from the file, the file was retrieved on 6 May 2003 and on 7 May Mr Montgomery's wages and income were assessed and backdated benefit was awarded. Officer A was unable to clarify why the assessment had not been made in mid-March when it had been received.

26. As a result of the housing benefit assessment, a backdated sum of benefit of £594.27 was awarded to Mr Montgomery which reduced his debt to £73.79. The Council says that a letter was sent to him on 15 May 2003 advising him of the award of benefit. However, the letter, which would have been generated automatically, was sent to his last known address, ie Davis House, from which he had been evicted two months previously. Mr Montgomery has never received this letter. Mr Wood says that he had given his address to the Council as a contact address for Mr Montgomery. In response to written enquiries about the complaint, the Council had informed the Commission's officer that it was not possible to change the address on the computer. However, the Commission's officer asked Officer A why a letter had been sent to the previous address and he explained that it was possible to put a correspondence address on to the computer. Thus, by mid May 2003 Mr Montgomery's arrears had reduced to just under £74. Mr Wood submitted that if this award had been made prior to the eviction, it is highly unlikely that Mr Montgomery would have been evicted. This view is accepted by the Rent Income section.

Application for housing

27. On 2 July 2003 Mr Montgomery submitted an application for housing. The application showed that he had no fixed address and since his eviction had been staying at a number of places, either with friends or family. The application showed that he wished to be re-housed with his two sons, both of whom were over 18. He gave Mr Wood's address and telephone number as his contact details. When the Commission's officer asked why he waited until July to make an application for housing, Mr Wood explained that until June Mr Montgomery understood that he still had extensive rent arrears and therefore would not be rehoused (see paragraph 11). In early June Mr Wood had telephoned the Council to find out if Mr Montgomery's HB backdating claim had been assessed. He told the Commission's officer that the reason for this was that he understood that Mr Montgomery would not be considered for re-housing so long as he had outstanding rent arrears. When he telephoned the Council in early June he was told that the HB had been reassessed and that the account was in credit by £58.08. As a result Mr Montgomery submitted his application for housing. The Council explained to the Commission's officer that, for historical reasons, Northampton has a number of one and two bedroomed flats which can be allocated to single people or couples who would otherwise have little priority for housing.
28. However, on 20 August 2003 the Housing Needs Section, which assessed Mr Montgomery's housing application, wrote to him stating:

"I note from our records that there are debts of £668.06 relating to your previous tenancy...You need to contact the Council to arrange payment of this debt. Your application for rehousing will not receive further consideration at this time. You should contact us in 6 months time. If you can demonstrate that the agreement for repayment has been adhered to, your application for rehousing will be reviewed at that time. You do have the right to appeal against this

decision. Any appeal must be made in writing to the Head of Housing and Care Services.”

Mr Montgomery and Mr Wood were shocked by this as they understood that the arrears had been cleared.

29. This information contradicts the information on the file, ie that Mr Montgomery’s arrears stood at just under £74. In responding to enquiries about the complaint the Council has since accepted the rent account was virtually cleared in May 2003 and that the deferment should not have occurred. In early September Mr Wood visited the Council offices and was told that the deferment had been lifted and that Mr Montgomery was on the housing waiting list, but that he only had 23 points which were insufficient to put him near the top of the waiting list. As a result of this, on 3 September, Mr Wood wrote a letter of complaint to Officer D, the Homelessness Team leader. A further copy of the letter was delivered by hand to the Council on 30 September 2003 as it had become apparent that Officer D had not received the initial letter. The Commission’s officer asked Mr Wood why he had written to Officer D when in fact he had no dealings with Mr Montgomery’s application. Mr Wood explained that he had had some dealings with Officer D in the past and he was the only senior officer he knew to whom to make a complaint.
30. The essence of the complaint was that notification of the HB awarded in May 2003 had been sent to Mr Montgomery at the address from which he had been evicted and therefore had effectively prevented him from submitting a housing application form until July 2003. The second part of the complaint was that Mr Montgomery had been told incorrectly that he still had debts of over £650, which was incorrect, and that his application would be deferred for six months. He asked the Council to backdate the housing application to mid May, to clear the outstanding arrears and to pay a sum of compensation of £100.

Recovery of alleged rent arrears

31. On 25 July 2003 the Council raised an invoice for the full amount of the rent and court costs, ie £668.06. The invoice was sent to Davis House. Although Mr Montgomery did not receive the invoice it was evident that the Council had not amended its records. Officer B explained to the Commission’s officer that once Mr Montgomery had been evicted the Rent Income section no longer had responsibility for any outstanding arrears. The debt would have been passed to the Miscellaneous Income section. In fact, in March 2003 the Rent Income section had recommended that the debt be written off as it had no forwarding address for Mr Montgomery.
32. On 1 September 2003, presumably as a result of Mr Wood’s visit to the Council offices, the Council issued Mr Montgomery with a new invoice for £73.79 relating to outstanding court costs while resident at Davis House. The invoice was addressed to Mr Montgomery care of Mr Wood’s address. On the same date the Miscellaneous

Income section contacted the Rent Income section asking for authorisation to write off the amended amount. This was approved on 17 September 2003.

33. A reminder invoice was sent on 22 September 2003, again to Mr Wood's address. The Council's file shows that on 26 September 2003 the debt was written off by the Miscellaneous Income section as it was for less than £100. Thus on that date Mr Montgomery no longer owed any money to the Council. Nonetheless, on 28 October 2003 a debt recovery company sent Mr Montgomery, care of Mr Wood's address, a notice of appointment as debt collectors for the £73.79 late tenant charges. The notice required payment of the full amount within 14 days in order to prevent further collection procedures being initiated. The letter also advised the debtor to telephone the recovery company if there was any dispute regarding the amount. It is not clear whether Mr Wood or Mr Montgomery contacted the recovery company at that time, but on 5 November 2003 Mr Wood received a note addressed to Mr Montgomery c/o his address headed "Notice of intention to commence proceedings in the County Court for £73.79." The notice stated that unless payment was made within the next 10 days legal proceedings could be commenced. On the same date the recovery company wrote to Mr Montgomery stating that as payment had not been made they would visit the address with a view to immediate recovery of the amount. On 10 November 2003 a final demand was issued to Mr Montgomery stating that a visit would be made. In the meantime Mr Wood had telephoned the recovery company to advise them that the debt was disputed and that the address given was a correspondence address only and that Mr Montgomery did not live there and nor were any of his goods present at the property. He backed up this telephone call by letter of 15 November 2003. The recovery company replied on 18 November 2003 stating that it was acting on instructions from the Council and that the bailiffs would be visiting the address shortly. The letter stated that it was unaware of any record of the dispute concerning the debt.
34. The Commission's officer's examination of the Council's file shows that the debt was written off on 26 September 2003 and thus any of the actions after that date should not have occurred. The Council has since acknowledged this to be the case and has apologised to Mr Montgomery for this.

Further housing application

35. In early December 2003 Mr Montgomery submitted a new housing application form as he was at that point staying at his daughter's bedsit and thought this might improve his chance of being re-housed. On that form he stated that Miss Montgomery lived at the property and wanted to be housed with him, and although he did not include details of his sons in the appropriate place on the form, he did state "my two sons want to live back at home with me and I cannot help them until I have a home or they find their own accommodation". The Council assessed the application on 12 December and awarded him 73 points, based on his having to share facilities, the insecurity of tenancy of where he was staying, and personal needs. The assessment indicated that he would be considered for either a one or

two bedroomed flat. These points were insufficient to enable an immediate offer to be made in accordance with the Council's allocations policy.

Complaint to the Council

36. By early January 2004 Mr Wood had not received a reply to his letter of complaint of 3 September 2003 (see paragraph 29) addressed to Officer D. He told the Commission's officer that on a number of occasions either he or Mr Montgomery tried to contact Officer D or other officers of the Council to find out why the letter had not been dealt with. At some stage, these enquiries were passed to Officer E, Head of Housing, Social Policy and Care Services. In mid February 2004 Mr Montgomery informed the Council that Miss Montgomery had asked him to leave her bedsit and he therefore needed to be accommodated. A note on the file indicates that he told the Council officer that he had been wrongly evicted the previous year and that he had waited a long time for a property.
37. On 27 February 2004 Officer E wrote to Mr Wood apologising for the failure to reply to the letter of 3 September 2003. She explained that while it had been addressed to Officer D in the Homelessness Section, in fact the issues contained in the letter related to rent arrears and Mr Montgomery's re-housing application. Therefore the letter should have been forwarded to those sections for investigation and response. This was not done and she apologised for this error. She confirmed that Mr Montgomery's housing application would be reviewed as a matter of urgency, and again apologised for the fact that letters and telephone calls had not been responded to. She stated that she had requested a review of the correspondence and complaints procedure within the homeless and temporary accommodation team and would seek to address any problems so as to avoid similar problems in the future.
38. In response to this letter Mr Wood requested a meeting with Officer E to discuss all the issues. The file shows that on 23 March 2004 Officer E made the decision to award Mr Montgomery maximum lack of security points thereby bringing his application within the required points for making an offer. As a result Mr Montgomery's points were increased to 193 for allocation of a one bedroomed property. On the same day the Council informed Mr Wood that Mr Montgomery was being shortlisted for a property which should result in an offer in the near future. Confirmation was given on 29 March 2004 that Mr Montgomery was made an offer of a one bedroomed flat. Mr Montgomery decided to decline the offer as he wished to wait for a two bedroomed property so that his sons could be housed with him.
39. While pleased that the Council had now addressed Mr Montgomery's housing situation, Mr Wood remained dissatisfied with the Council's response to the issues which he had raised in his letter of complaint of 3 September 2003 and he was particularly concerned that a suitable offer of housing should be made. As a result Officer E arranged to meet Mr Wood and Mr Montgomery on 7 April to discuss any outstanding matters. Also at the meeting was Officer F, the Senior Housing Needs Officer. She told the Commission's officer that she had a lengthy discussion with Mr Montgomery about his housing application and clarified a number of issues, not

least his need for a two bedroomed property so that he could provide accommodation for his sons. Officer F also explained that his housing need was becoming urgent as Miss Montgomery was experiencing difficulty in providing accommodation for her father and from time to time, one of her brothers.

40. Prior to this, on 5 April 2004 Officer B wrote to Mr Wood addressing the housing benefit and rent income issues contained in the letter of 3 September 2003. He explained that he had been informed on the day of eviction that there was no outstanding claim for backdating of benefit and clarified the subsequent payments which were made. He also explained why the letter awarding benefit was sent to Mr Montgomery's previous address. He clarified the position regarding the writing off of outstanding debts and confirmed that Mr Montgomery's goods, which had been removed from the flat at the time of eviction, were still in the safe keeping of the Council.
41. Mr Wood continued to remain dissatisfied with the Council's response to his complaints and therefore referred the complaint to the Chief Executive. He sought compensation for Mr Montgomery and his daughter in respect of the way they had been treated regarding the eviction and subsequent events.
42. On 20 August 2004 the Acting Chief Executive wrote to Mr Wood with a full reply to the issues raised in the letter of 3 September 2003. He reiterated the Council's view on Mr Montgomery's housing benefit and rent arrears position and confirmed the position regarding the housing application. His letter also indicated that at the meeting with Officer E on 7 April she had apologised for the pursuit of the balance of the arrears even though they had been written off in late September 2003. The Council's file does not contain a copy of any notes taken at that meeting so it has not been possible to confirm whether this was indeed the case. The Commission's officer asked Mr Wood if it was his recollection that Officer E had apologised for these issues, but he could not recall in detail. The Acting Chief Executive's letter also addressed Mr Wood's concern that the notification of HB dated 15 May 2003 had been sent to Mr Montgomery's previous address. The Acting Chief Executive confirmed that additional priority had recently been given to Mr Montgomery's housing application and that on 30 July he had been offered a two bedroomed flat. He offered to make a payment to Mr Montgomery of £250 in recognition of the distress and inconvenience he had suffered as a result of the issues raised in the original letter of complaint not being addressed in an appropriate way.
43. Mr Wood remained dissatisfied with this response and subsequently referred his complaint to me.

Storage of possessions

44. When Mr Montgomery was evicted in March 2003 the Council removed his possessions from his flat and placed them in storage. The Council's policy is to retain such possessions for a period of three months. However, in view of Mr Montgomery's continuing lack of housing, the Council agreed to continue to store his possessions

until he was re-housed. Mr Montgomery was most concerned about his possessions and Mr Wood's records show that in the few months after the eviction he contacted the Council on a number of occasions to confirm that the possessions were still in storage and would remain there. In June 2003 Officer B made enquiries of the storage depot and they confirmed that the goods were safe. As Mr Montgomery remained without permanent accommodation, from time to time the Council confirmed that it continued to retain his possessions and would do so until he was re-housed. The issue arose again in March 2004 when Mr Wood was in contact with Officer E about his complaint. In his letter to Mr Wood of 5 April 2004, Officer B confirmed that Mr Montgomery's goods were still being held and were still awaiting collection once Mr Montgomery had been re-housed. The Commission's officer asked Officer B on what basis he provided this information and he informed her that he had personally contacted the storage depot to confirm that the possessions were still safe.

45. However, in October 2004, when Mr Montgomery moved into his new flat and sought recovery of his possessions, he was informed that they had in fact been damaged in a storm in February 2004 and had then been subject to looting by local youths, leading to all remaining possessions being disposed of. It is apparent from the Council's file that neither Mr Wood nor Mr Montgomery was informed of this in February 2004 and indeed, in April 2004 when Officer B made his enquiry, he was given incorrect information.
46. Upon receipt of this advice Officer B assisted Mr Montgomery in making an insurance claim. The claim was submitted in November 2004. The Commission's officer was informed by Mr Wood that the claim was eventually settled in June 2005 following lengthy negotiations between Mr Montgomery and the Council. Mr Wood acknowledged that some of the delay was the responsibility of Mr Montgomery, but the Council had still taken some time to deal with the claim. The Council's file shows that Mr Montgomery moved into his new flat in late October 2004 without any furniture or personal possessions and without the means to obtain them.

Miss Montgomery

Homelessness application

47. At the time of her father's eviction from Davis House in March 2003, Miss Montgomery was living at the flat and thus she was also evicted. At that time she was a month short of her 18th birthday. Immediately following the eviction Mr Wood arranged for the assessment team from Northamptonshire County Council Social Care department to assist Miss Montgomery with her predicament. She was referred on by the assessment team to the Borough Council's Homelessness Section on 6 March 2003. She submitted a homelessness application on that date. The Council provided her with temporary accommodation in a local bed and breakfast hotel. The Council's file shows that on that date Miss Montgomery signed a letter confirming that she had read and understood a number of instructions relating to her

residence at the B&B. Miss Montgomery was required to pay £8.47 per week towards the service costs of the accommodation. She was also required to complete a HB form with the expectation that the claim would cover the accommodation charge of £32 per night. The letter stated that she should return the HB form the following day with evidence of any income she might have or details of benefits received.

48. A decision on her homelessness application was not made until 13 May 2003. In response to my enquiries about the complaint the Council stated that an early decision was not made because there was some possibility that Mr Montgomery might apply for the eviction to be set aside in which case he and Miss Montgomery would be able to return to the property. However, when it became apparent that this was not going to happen, an assessment and decision was made on her homelessness application. By that time Miss Montgomery was 18. The Council accepted that she was homeless but that she was not in priority need because she did not come within one of the categories establishing priority need (see paragraph 5). As a result the Council had no duty to provide her with priority housing. She was informed that her temporary accommodation at the bed and breakfast would continue until 23 May 2003 when she would be required to leave. Mr Wood complains that B&B accommodation is inappropriate for a child of 17 and that the Council should have provided Miss Montgomery with more support. Officer D explained to the Commission's officer that the Council has a contract with a local housing association to provide assistance and support for all homeless applicants. However, it is apparent from the Council's file that the housing association did not contact Miss Montgomery until some four or five weeks after the initial referral.

Housing benefit

49. Miss Montgomery was required to complete a HB application form to cover the charges for the B&B. Miss Montgomery signed the claim form on 13 March 2003 but the form was not passed to the Council until 4 April 2003. Miss Montgomery passed the claim form to her social services support worker to provide further information. Miss Montgomery's view is that the support worker did not action it for some time and could not be contacted easily, hence the delay in returning the form. The handwriting on the form shows that two different people filled in the form. The Council lost the form and so no action was taken.
50. On 21 April 2003 Miss Montgomery, accompanied by Mr Wood, had an appointment at the Council about her homelessness application. At that meeting Miss Montgomery was informed that the Council had not received a HB claim form and that without it Miss Montgomery would be liable for the full charges at the B&B. As a result she completed another form and although the file records are not completely clear, it appears that this form was received by the Council on 24 April. However, on 28 April the HB section informed the homelessness section that a form had not been received and as a result no payment would be made. On 7 May 2003 the homelessness section wrote to Miss Montgomery stating that it needed a request from her for backdating of her HB from when she moved into the B&B. This was an

indication that the Council was processing her claim. Miss Montgomery needed to explain why she did not provide her HB form earlier.

51. Miss Montgomery replied to this letter on or about 8 May. She explained:

“at the time that I accepted temporary accommodation I was 17, and had just obtained a social Worker who said she would assist me. In the event, she held onto the forms and on several occasions when I ‘phoned her office she was out on a course, or otherwise unobtainable. I was taking time off from work to try and complete the various tasks regarding this and the other matters I had to attend to. Eventually I stopped working so that I could ensure these various items were dealt with..... this is all new to me and has been a bit bewildering. I hope this letter provides the information you require and that you will write again if further info is required.”

52. The letter was received in the Homelessness Section on 12 May 2003. The file shows that a copy was sent to the HB section on 13 May asking if Miss Montgomery needed to complete a backdate request form. This letter was never actioned. The HB section processed Miss Montgomery’s benefit application on 15 May 2003 and after receiving information about her income, ultimately awarded benefit on 16 June 2003 for the period 28 April to 25 May 2003 (the date Miss Montgomery vacated the B&B). This meant that Miss Montgomery was still liable for the accommodation charges for the period 6 March to 27 April 2003, plus the weekly amount which was not covered by HB.
53. On 22 September 2003 the Council wrote to Miss Montgomery at her new address stating that she owed £1,979.40 relating to rent for the B&B and that no HB was received for the period 6 March to 27 April 2003. Mr Wood told the Commission’s officer that he understood that Miss Montgomery has continued to receive similar letters in the two years since then.
54. The Commission’s officer asked Officer D whether Miss Montgomery still owed this money. He said that she did and that at some point consideration would be given to whether she should be pursued through the courts for recovery of the money. The Commission’s officer showed Officer D Miss Montgomery’s letter explaining why she had not sent in the form earlier. Officer D was not aware of this and stated that if it is clear that Miss Montgomery did in fact request that her claim be backdated he would review the file and if appropriate write off the arrears.

Complaint to the Council

55. In response to the letter of 22 September 2003 (see paragraph 53) Mr Wood, on Miss Montgomery’s behalf, wrote a letter of complaint to the Homelessness section on 30 September 2003, complaining about the Council’s pursuit of Miss Montgomery for charges relating to accommodation provided while she was homeless and under 18. He took the view that being under 18 she was not able to enter into a

binding contract for such charges and that they should be cancelled. He also explained that Miss Montgomery had replied to the Council's request for information about why she had not submitted a HB form straightaway and asked if the Council had dealt with this correspondence.

56. The Council's file shows that this letter was received by the Homelessness section on 30 September 2003, the day it was written, but it was not actioned. As part of his complaint on behalf of Mr Montgomery, Mr Wood also complained that he had not received a reply to his letter of 30 September 2003. In March 2004, when the complaint was being assessed, the letter was passed to Officer D for a reply. On 30 March 2004 Officer D wrote to Miss Montgomery, in response to Mr Wood's letter of 30 September 2003. He explained why she was liable for charges at the B&B, even though for some of her stay she was under 18. He stated that the Council was not aware that she was in contact with Social Services. This information was incorrect. He also stated that she had not made a claim for benefit for the period 6 March to 27 April 2003. He did not address Mr Wood's comment that Miss Montgomery had explained why her HB application was delayed.
57. As far as Mr Wood is aware, Miss Montgomery did not receive this letter. Mr Wood complained to me that he did not see a copy of this letter until September 2004. The Commission's officer asked Officer D why he had written to Miss Montgomery, and had not sent a copy of the letter to Mr Wood. He stated that he thought he should write to Miss Montgomery as she was the person who owed the debt and he did not think to send a copy to Mr Wood as he thought Miss Montgomery was in touch with him. Regarding the HB situation Officer D stated that this should have been checked in March 2004 before writing to Miss Montgomery, but there is no evidence that this was done.

Housing application

58. Shortly after applying to the Council as homeless Miss Montgomery also applied to go on the Council's housing register. At the time she made her application she was under 18. On 7 May 2003 an officer in the Homeless section wrote to her stating that her application had been registered, but as she was under 18 her application would be held in suspense unless a responsible adult was prepared to act as a guarantor until her 18th birthday. By that date Miss Montgomery was 18 and so did not need a guarantor. She replied, stating that the present temporary arrangements were unsuitable for anything other than a short term stay and also stating that she was now 18, which would have been clear from the information provided at the outset. When questioned by the Commission's officer, Officer D confirmed that a tenancy could be granted to a 17 year old, so long as s/he had a guarantor. He also stated that the officer must have overlooked the fact that Miss Montgomery was over 18 at the time the letter was written.
59. In mid July 2003 Miss Montgomery was offered a Council tenancy in a bedsit in Northampton. She accepted the offer and moved in shortly afterwards.

Conclusions

Mr Montgomery

Eviction of Mr Montgomery

60. At the time of the eviction Mr Montgomery had made a request that his HB be backdated. The HB section gave the Rent Income Manager incorrect information about the status of Mr Montgomery's HB claim. This information influenced the actions of the Rent Income section, ie it went ahead with the eviction. I am satisfied, from my interviews and my consideration of the file, that if Officer B had known that there was a backdating request he would have encouraged Mr Montgomery to submit an application to the court to suspend the warrant pending consideration of the HB claim. It would then have been for the court to decide whether to suspend the warrant (and Officer B said he might not have opposed the application). My experience is that the court would have adjourned. This error was maladministration and had the severest consequences for Mr Montgomery.
61. The Council argues that Mr Montgomery should have been more proactive in sorting out his HB. I think he was sufficiently so. He asked his employers for a copy of his P45 and he applied to the court for an application to suspend the warrant. Up until the time I interviewed the officers they did not know that Mr Montgomery had made such an application. It was unfortunate for Mr Montgomery that the court returned the forms to him, but that is not the fault of the Council.
62. I do have concerns that Mr Wood did not think to make a further application to the court on the day of the eviction. However, by that time Mr Montgomery was on the other side of town and could not easily go to the court offices to make such an application.

Housing benefit claim

63. The P45 was handed to the Council on 13 March 2003 but was not actioned for nearly two months. This was maladministration. The Council then sent the HB notification letter to the address from which Mr Montgomery had been evicted. This was maladministration and delayed him applying for housing. The HB reduced the arrears to just under £74. The Council accepts that if this assessment had been made prior to the eviction then the eviction would not have proceeded.
64. The details of the HB payment were not transferred across to the Rent Account, which led to an incorrect invoice being raised and to the deferment of Mr Montgomery's housing application.

Application for housing

65. The Council wrote to Mr Montgomery incorrectly stating that he had over £600 rent arrears and this meant that his housing application would not be considered for six

months and that in the meantime he would have to arrange for repayment of the sum due. Taking into account Mr Montgomery's depression this had an adverse effect on his health, particularly in view of his unsatisfactory housing situation, sleeping on floors and sofas with friends and members of his family.

66. When Mr Montgomery's housing application was assessed he had insufficient points to put him near the top of the waiting list. I cannot conclude, therefore, that if Mr Montgomery had submitted an application earlier, or if it had not been deferred, that he would have been housed during the period of deferment. I do consider, however, that Mr Montgomery suffered increased anxiety and frustration as a result of the Council's error and Mr Wood went to a great deal of trouble to clarify the situation.
67. The Council assessed Mr Montgomery's second housing application in accordance with its policy and again he had insufficient points to enable an immediate offer to be made. It was not until February 2004, when he had to leave his daughter's bedsit, that his situation warranted maximum lack of security points thus allowing an offer to be made.

Recovery of alleged rent arrears

68. The Council pursued Mr Montgomery for the arrears even though they had been written off. After the date they had been written off Mr Montgomery received five letters about recovery by bailiffs, with notices about commencing legal proceedings, recovering possessions etc. These actions were all maladministration.

Storage of possessions

69. The Council agreed to retain Mr Montgomery's possessions until he was rehoused. The possessions were destroyed in February 2004, but Mr Montgomery was not informed of this until October 2004. This meant that when he commenced his new tenancy he had no furniture. If he had been informed in February 2004 about the damage he could have submitted an insurance claim at that time. This might have meant that the claim would have been resolved by the time he moved into his accommodation in October 2004.

Complaint to the Council

70. The Council did not reply to the letter of complaint of 3 September 2003 until February 2004 (in fact it was April 2004 when the final points were addressed). The Council paid Mr Montgomery £250 for this failure. The Council has assured me that new procedures are in place to prevent such errors occurring in future.

Miss Montgomery

Homelessness application

71. The Council dealt appropriately with Miss Montgomery's homelessness application and in accordance with its statutory duty. Although she was under 18 when she made the application, by the time the decision was made she was 18 and was therefore assessed as an adult. Mr Wood did not seek a review or appeal the homelessness decision.

Housing benefit

72. The Council lost Miss Montgomery's first HB form and subsequently failed to action her letter requesting backdating. This was maladministration. As a result she accrued unpaid accommodation charges which the Council sought to recover. At the time of my investigation these were still outstanding, but the Council has now agreed to write them off. The Council also failed to address Mr Wood's submission on this point in his letter of 30 September 2003.

Housing application

73. The Council dealt with Miss Montgomery's housing application in accordance with its housing policy and as a result she was offered single person accommodation. Human error meant that she was sent a letter, when she was already 18, saying she needed to provide a guarantor. This added to the sense of frustration that the Council was not fully aware of her circumstances, but I do not consider that it had any significant consequences for her housing situation.

Complaint to the Council

74. The Council failed to reply to Mr Wood's letter of 30 September 2003 until 30 March 2004. Officer D did not reply to Mr Wood, but to Miss Montgomery and did not send a copy of the letter to Mr Wood. This was maladministration. The letter contained incorrect information and at the time the letter was written the Council failed to check the HB situation. If it had done so no doubt it would have realised that Miss Wood had requested backdating of her claim and that it had not been actioned.

Complaint to my office

75. Following my enquiries to the Council asking for its comments on the complaints, the Council had the opportunity to review the events surrounding these complaints. I am concerned that even at that point the Council failed to carry out a thorough review and thus failed to identify the errors I have highlighted in my report. The responses to my enquiries were incomplete and contained contradictions between departments.

Finding

76. I wrote to the Council on 16 August 2005 setting out my provisional conclusions and stating that I would consider any injustice to Mr Montgomery to be remedied if it compensated him for the consequences of the eviction, for pursuing him for a debt after it had been written off and for failing to inform him of the destruction of his personal possessions. The Council has accepted my conclusions and has agreed to pay Mr Montgomery £3,500. In the same letter I also stated that I would consider any injustice to Miss Montgomery to be remedied if the Council compensated her for the disruption she suffered following the eviction of her father and if it wrote off rent arrears for the B&B accommodation. The Council has agreed to pay Miss Montgomery £1,500 and to write off the rent arrears. I am grateful to the Council for taking these steps. I am also assured by the Council that many of the working practices and systems in place at the time of these events have been reviewed and changed. However, the Council accepts that further lessons can be learnt from my findings and these will lead to improvements in services.
77. The Council has also agreed to pay Mr Wood £250 in recognition of his efforts on behalf of Mr Montgomery and Miss Montgomery to resolve their predicament. Arguably, without his intervention their situation would have been significantly worse.
78. While I am pleased that the Council has agreed with my recommendations, I have decided nonetheless to conclude my investigation and publish a report on these complaints because they raise matters of public interest. It is of considerable importance, when dealing with sensitive issues and people who find themselves in vulnerable situations, that councils take great care and consideration when carrying out their statutory duties.

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21 November 2005