

# Report

on an investigation into  
complaint no 05/A/05092 against  
the London Borough of Waltham Forest

28 March 2006

Millbank Tower, Millbank, London SW1P 4QP

# **Investigation into complaint no 05/A/05092 against the London Borough of Waltham Forest**

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## **Key to names used**

Mr Lester	the complainant
Mrs Holland	the complainant's relative, on behalf of whom the complaint is made

## **Report Summary**

### **Subject**

The complaint was made by Mr Lester on behalf of his elderly relative, Mrs Holland. He alleged that the Council delayed unreasonably in transferring the tenancy to Mrs Holland following the death of her husband and in reassessing her housing benefit claim. The tenancy matters are dealt with by Ascham Homes on the Council's behalf, and the housing benefit claim is dealt with by the Council. As a result of the delay, and the failure of the relevant departments to liaise effectively, Mrs Holland was shown as having rent arrears, for which Ascham Homes took recovery action. She received a Notice of Seeking Possession in her deceased husband's name. Mr Lester complained also about the Council's delay in dealing with his complaint and in informing him how to pursue it through the procedure.

### **Finding**

There was no significant administrative fault in dealing with the housing benefit claim but there was a failure by the Revenues and Benefits Service and Ascham Homes to liaise effectively. Ascham Homes took far too long to amend the tenancy agreement, and failed to suspend rent recovery action pending the outcome of the tenancy transfer and the housing benefit claim. There was a failure also to deal properly with Mr Lester's complaint. As a result of the maladministration, Mrs Holland was caused unnecessary worry and distress, and Mr Lester was put to time, trouble and inconvenience in dealing with both the matter itself and the complaint. The Council accepts there were shortcomings and has agreed to amend its procedures.

### **Recommended remedy**

The Council is to pay compensation of £300 to Mrs Holland and pay £50 to Mr Lester in recognition of his time and trouble. Ascham Homes is to be asked to review how it deals with elderly and vulnerable tenants, and to send the Ombudsman a copy of Mrs Holland's amended tenancy agreement.



## **Introduction**

1. Mr Lester made the complaint on behalf of his relative, Mrs Holland, who was aged 90 at the time of the events. He alleged that the Council delayed unreasonably in transferring the tenancy to Mrs Holland after her husband's death, and continued to address correspondence in his name. He also complained that there was a delay in amending Mrs Holland's housing benefit claim, and, in consequence, the Council pursued rent arrears which were not owed to the point of issuing a Notice of Seeking Possession. Mr Lester says that he went to great lengths to try to explain the position to the Council and to resolve matters over several months but the Council's response was slow and inadequate.
2. For legal reasons the names used in this report are not the real names of the people concerned. Mr Lester and the Council were sent a factual draft of my report. Where appropriate their comments are reflected in the text.

## **Legal and administrative background.**

3. The Council's housing service is run and managed by an arms length management organisation, Ascham Homes. A service level agreement governs the relationship between Ascham Homes and the Council's Revenues and Benefits Service. Where the Council's actions are referred to in connection with housing management they were carried out by Ascham Homes. Within Ascham Homes, rent account matters are dealt with by the Rent and Accounts section. The Council's Revenues and Benefits Service deals with the administration and payment of housing benefit claims. There are formal bi-monthly meetings between Revenues and Benefits and Ascham Homes (whose tenancy services officers may attend). In addition Ascham Homes staff have access to a dedicated benefits officer who can deal with queries and urgent cases. The Revenues and Benefits Service receives a weekly list of cases subject to court proceedings for rent arrears. It is considered as a priority by an officer in the team dealing with changes in circumstances.
4. The service level agreement states that, where a housing visit reveals information relevant to benefits administration, notification will be sent by Ascham Homes to the Council's benefits section within two days of the visit. The agreement also provides for reciprocal arrangements where a benefit service visit reveals information relevant to Ascham Homes.
5. Ascham Homes has a procedure for succession on the death of a tenant. On receiving a report of a tenant's death, a Tenancy Enforcement Officer should check the house file for details of relatives and then try to contact them to obtain a death certificate. The Tenancy Enforcement Officer should try to interview any remaining occupants within three working days in order to establish if they have a claim for succession to the tenancy. If there is a person claiming the right to succeed he or she must be interviewed and an application form be completed.

## Investigation

6. Mr and Mrs Holland were Council tenants with the tenancy agreement in Mr Holland's name. Sadly he died on 30 October 2004. Mr Lester began to help Mrs Holland to deal with her affairs, including her pension, housing benefit and tenancy. Mr Lester says that, around late November or early December, he made some telephone calls to Ascham Homes to explain the position. He asked about housing benefit and was advised to get in touch with the Revenues and Benefits section. On 21 December 2004 Mr Lester sent the Council a completed housing benefit application form, and on 25 January 2005, he sent the supporting documents which included: Mrs Holland's bank statement and details of her retirement pension and pension credit. Mr Lester says Mr Holland's death certificate was sent, possibly with the housing benefit application form.
7. On 17 January 2005 a letter was sent by Ascham Homes to Mr Holland warning of rent arrears of £585. Mrs Holland was worried and upset by the letter. Mr Lester telephoned to explain that the arrears were as a result of the housing benefit claim which was yet to be resolved. On 20 January the Housing Officer visited Mrs Holland to complete a tenancy transfer form.
8. On 28 January 2005 the Council wrote to Mrs Holland to explain the amount of housing benefit she was entitled to, and how it had been calculated. Mr Lester replied to the Council on 10 February to query the assessment and to point out there was a discrepancy with the pension credit which he was trying to resolve. The Council reassessed the claim but Mr Lester was concerned that it was still incorrect because the pension credit had not yet been finalized. He told my investigator that he tried on many occasions to telephone the housing benefit enquiry line but was often unable to get through, or to make any progress.
9. On 7 March 2005 Mrs Holland was shocked and distressed to receive a hand delivered letter from Ascham Homes addressed to her late husband and enclosing a letter from the Debt Recovery Team referring to rent arrears of £364.59 and enclosing a Notice of Seeking Possession. Mr Lester wrote to the Chairman of Ascham Homes on 21 March to complain. He wrote:

*"Despite numerous requests to the contrary, [Mrs Holland] continues to receive correspondence from your offices addressed to her late husband. You are well aware that he died on 30<sup>th</sup> October 2004 and have had sight of the Death Certificate. You are indeed supposed to be arranging a transfer/assignment of the tenancy into her name because of this, though it seems to be taking an inordinately long time to be processed..... [Mrs Holland] is 90 years of age and gets very distressed when she gets any kind of mail in her late husband's name, let alone threats of eviction.  
....."*

10. Mr Lester went on to explain that there were some issues delaying the final housing benefit assessment but Mrs Holland was continuing to pay the original rent, which he believed would not differ very much once her claim was finalized. An officer in the Tenancy Enforcement Team replied briefly to Mr Lester. In a letter dated 18 April, he apologised for the delay in changing the tenancy details and confirmed that some direct debit mandates had been sent to Mrs Holland. There was no reference in the letter to the Notice of Seeking Possession, or advice as to how to take the complaint to the next stage of the complaints procedure.
11. Mrs Holland's housing benefit was reviewed again and she was informed of her entitlement on 7 April. The Council had been in touch with the Pensions Service which confirmed the amount of Mrs Holland's private pension. Mr Lester wrote on 28 April enclosing a copy of a letter from the Pension Service confirming Mrs Holland's entitlement to pension credit from the time of her husband's death. Mr Lester hoped that the matter now could be finally resolved.
12. Meanwhile, Mr Lester was still trying to resolve the tenancy matter and telephoned Ascham Homes again. He was advised that, although a tenancy transfer form had been completed in January, the paperwork was incomplete and a further form would have to be completed. An internal Ascham Homes email from an officer in the Debt Recovery Team who dealt with Mr Lester, said that the Notice of Seeking Possession issued in January had been the result of housing benefit adjustments, and that the officer was unaware of Mr Holland's death at the time. He believed that Mr Lester accepted this but felt the arrears section should have been advised of the death by other departments. The officer explained he had put on hold any further recovery action until the housing benefit claim had been resolved. He had visited Mrs Holland the day before, on 7 May 2005. A further visit was made by a different officer on 29 June in connection with the tenancy and Mrs Holland signed a tenancy transfer form. An internal memorandum requesting the amendment of the tenancy details was sent on 8 July. Meanwhile, on 30 June Mr Lester complained to me.
13. The Council wrote to Mrs Holland on 19 July 2005 to notify her that her housing benefit had been revised again for the period from 1 November 2004. Mr Lester wrote to the Head of Revenues and Benefits on 2 August to say that he was concerned it was still incorrect. He received a reply from the Customer Service Manager who confirmed that she had amended the claim for all periods and believed it was now correct. However, there was one period from 1 November to 27 December 2004 for which payments had not been made to Mrs Holland's rent account and she was trying to resolve the problem. A further notification letter explaining more changes was sent to Mrs Holland on 23 August.
14. On 11 August the Council replied to the aspect of the complaint about housing benefit. The claim had been determined on 28 January 2005 but not backdated at that point. The private pension was not taken into account because details were unavailable, and further information was sought from the Pensions Service. The claim was assessed for the period from 1 November 2004 to 27 December 2004 on 19 July 2005 (however, it appears this was not amended until later, see paragraph

- 16). The Council's view was that it had not been possible to deal earlier with the first few weeks of the claim because the relevant information had not been available then.
15. On 20 August Ascham Homes sent a further letter about rent arrears addressed to Mr Holland. Mr Lester wrote an angry reply.
  16. On 23 August Revenues and Benefits wrote to Mr Lester confirming that Mrs Holland's claim had been revised to reflect the correct amount of her income and savings, but that, due to a technical problem, the amount for the period 1 November 2004 to 27 December 2004 had not been credited to her rent account, and the problem had not been rectified. A further housing benefit notification was sent on 31 August revising the amounts for some periods and informing her of an overpayment of £226.68.
  17. On 5 September the Council replied to the complaint about Ascham Homes. The main points can be summarized as follows:
    - It was unfortunate that the first individual Mr Lester spoke to was unable to assist him other than to provide contact details of Revenues and Benefits, and that if a housing benefit claim form had been requested initially it should have been sent out.
    - Ascham Homes failed to amend its paperwork following receipt of the death certificate provided by Mr Lester. It was unacceptable that the details were not amended following the paperwork and telephone calls. These matters would be discussed at a Tenancy Enforcement Team meeting.
  18. Mr Lester telephoned my investigator on 22 September to say that he believed the housing benefit aspect of the matter had been resolved finally, but that Ascham Homes were continuing to send post in the name of Mr Holland, which Mrs Holland found distressing. He believed that the tenancy agreement still had not been amended. He wrote on 19 September to confirm that, approaching the anniversary of Mr Holland's death, despite many promises, the tenancy was not yet in Mrs Holland's name. He wrote again on 31 October to say that, finally, Mrs Holland had received a number of letters addressed to her. He confirmed also that her rent statement showed that she was £58 in credit, which was in accord with his calculations. He was concerned about how long it had taken to reach this position, and that Mrs Holland had received no final confirmation that the tenancy had been transferred to her. According to the Council, the computer record shows that the tenancy was transferred to Mrs Holland on 22 July 2005 and backdated to 1 November 2004.

## The Council's view

19. The Council says that the death certificate was supplied but the Enforcement Officer did not follow the correct procedure. He left Ascham Homes employment soon afterwards. The old rent account continued to run and rent arrears built up. Officers in the Rent and Accounts section were not aware of Mr Holland's death even though the correspondence should have been available. The Debt Recovery Officer visited Mrs Holland at home and apologised to her and Mr Lester. The Rent and Accounts section instructed the IT section to change the tenancy details even though the relevant forms had not yet been processed. The Group Manager of Rent and Accounts made the decision in the light of the complaint. It is unfortunate that the matter was not resolved within a reasonable time although several emails show that, as soon as Rent and Accounts knew about the change in Mrs Holland's circumstances, they advised the dedicated officer in the Housing Benefit section. The Council acknowledges that the contractor failed to act on the information available in accordance with the procedure on the death of a tenant and has apologised. The Council acknowledges also that in dealing with the complaint at the first stage, Ascham Homes did not include the paragraph explaining how to take it to the next stage of the complaints procedure, an oversight for which it also apologises.
20. Commenting on the draft of this report the Council said that Ascham Homes had offered a further apology to Mrs Holland and her family. It said the following procedural changes have been made:
  - Closer supervision of administrative staff within the Tenancy Enforcement Team.
  - Dedicated staff and appropriate cover to ensure that all administrative functions are carried out.
  - Procedural clarification of how Ascham Homes deals with changes of names.
  - Where a request is made for a change in tenancy, a letter will be sent explaining the effective date of succession and the rent account number (whether it has been changed or not). The Rent and Accounts Section will be sent a copy of the letter. This is to allow any issues to be raised on the agenda of the monthly service level agreement meeting between the Rent and Accounts Section and Revenues and Benefits.
  - Six weekly case reviews will be overseen by the supervisors/team leaders within Tenancy Enforcement to ensure that all cases and any problems are addressed.
  - A scanner has been bought so that documents can be copied at visits to residents' homes.

## **The Complainant's view**

21. Mr Lester experienced a great deal of difficulty in trying to deal with the matter. He mentioned in particular the problem of getting through on the telephone, or receiving responses to his telephone calls and letters. He was dissatisfied with the way the Council dealt with his complaint. Among other things, he was concerned that he was not advised how to progress his complaint through the Council's complaints procedure. He queried why Mrs Holland had to sign the same tenancy form on three separate occasions between January and June. Although the Council confirmed that the tenancy was finalized on 22 July, even now, Mr Lester has not been assured that Mrs Holland has received finally a tenancy document in her name.

## **Conclusion**

22. I welcome the Council's willingness to make changes to its procedures in the light of this case. It has demonstrated a failure of coordination between Ascham Homes and the Council's Revenues and Benefits Service, but primarily a failure by Ascham Homes to deal with a very elderly and recently bereaved tenant properly and with sufficient care. Mr Lester telephoned Ascham Homes on 17 January 2005 and a home visit to Mrs Holland took place on 20 January (see paragraph 7). Certainly from that point, if not before, there should have been no further communication sent to Mr Holland, and further action in connection with rent recovery should have been suspended pending the transfer of the tenancy and assessment of the housing benefit claim. The failure to deal properly with the matter and, consequently, the sending of the Notice of Seeking Possession was maladministration.
23. There was further maladministration in failing to advise Mr Lester properly how take his complaint to the next stage of the complaints procedure (see paragraph 10). Furthermore, what should have been a straightforward matter took Ascham Homes an exceptionally long time to deal with. The tenancy transfer form was completed in January 2005 but Mr Lester was still chasing up the matter in May. There were three visits to Mrs Holland by different officers. In September, despite many promises, Mr Lester was concerned that he had no confirmation that the tenancy had been transferred. The failure to complete within a reasonable time what should have been a fairly simple administrative procedure was maladministration.
24. Turning to the aspect of the complaint about housing benefit, while I recognize there was some delay in resolving Mrs Holland's claim this was due largely to the need to obtain further information about her pension and pension credit. There were a number of reassessments in the light of the information obtained. The housing benefit was in payment from 28 January 2005 and was backdated except for a short period. I do not conclude there was administrative fault in dealing with the claim. However, there was a missed opportunity to alert Ascham Homes to the housing benefit position, and, in particular, and to the facts that Mrs Holland was now the claimant and Mr Holland's claim had ceased. I hope that the arrangements which the Council now has put in place will enable better coordination to take place in future.

25. In summary, I find there was maladministration by the Council in the following respects:

- Failure to amend the tenancy agreement within a reasonable time.
- Failure to suspend rent recovery action, and sending a Notice of Seeking Possession.
- Poor liaison between Revenues and Benefits and Ascham Homes, so that information about the housing benefit claim was not passed on or acted upon.
- Failure to deal properly with Mr Lester's complaint, and to inform him how to take it further.

26. The maladministration I have identified caused avoidable worry and distress to Mrs Holland at a difficult time following the death of her husband. In particular, to receive a Notice of Seeking Possession addressed to him must have caused Mrs Holland great distress. Mr Lester was put to considerable time, trouble and inconvenience in trying to deal with the matter and in pursuing his complaint. Without his help it seems probable that Mrs Holland would have been put to considerably more difficulty and worry. To remedy the injustice I recommend that the Council should take the following action:

- Pay £300 compensation to Mrs Holland.
- Pay £50 to Mr Lester for his time and trouble.
- Review Ascham Homes' practice in dealing with elderly and vulnerable tenants, and to consider providing a named member of staff to assist them with all aspects of tenancy and benefit matters following bereavement or other periods of change and difficulty;
- Send me without delay a copy of Mrs Holland's tenancy agreement.

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**28 March 2006**