

Report

on an investigation into
complaint no 05/B/16773 against
Northampton Borough Council

27 June 2007

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Key to names used

Ms Adams - Complainant

Report Summary

Subject

Ms Adams complained about the actions of Northampton Borough Council in administering claims she made for housing and council tax benefit between November 2004 and March 2006. She complained that the Council delayed excessively in processing benefit claims and appeals. She also complained that the Council pursued recovery of rent and council tax arrears while benefit claims she submitted as a result of changing circumstances and appeals were outstanding. In particular, that the Council took repossession action through the County Court, and that bailiffs were instructed to collect council tax arrears while her housing and council tax benefit entitlement was unresolved.

The Ombudsman upheld all of these complaints which highlighted serious failings in the Council's administration of housing and council tax benefit and in the recovery of rent and council tax arrears.

Finding

Maladministration causing injustice, remedy agreed

Recommended remedy

The Council has agreed to:

- apologise to Ms Adams;
- write off an outstanding housing benefit overpayment of £79.46;
- write off an outstanding balance on Ms Adams' council tax account of £187.39;
- make a payment of one week's housing and council tax benefit for the week commencing 7 December 2005; or else it pay financial compensation to the equivalent value;
- pay additional financial compensation of £1865 to Ms Adams (this amount is equivalent to £2500 minus the amount already written off on her rent account and the amount to be written off in respect of her council tax account).

The Ombudsman also welcomes commitments that have been given by the Council to improve its procedures so as to avoid a repeat of the failings highlighted during this investigation.

Introduction

1. Ms Adams complains about the actions of Northampton Borough Council in administering claims she made for housing and council tax benefit during 2004/2005. She complains that the Council failed to process benefit claims in a reasonable period of time and to process requests for appeals of certain decisions. She also complains that the Council pursued inappropriate recovery action in respect of rent and council tax arrears while appeals and requests to review her benefit entitlement in the light of changed circumstances were outstanding.
2. During the course of this investigation both Ms Adams and the Council have provided detailed written comments on the complaint. In addition, one of the Commission's investigators has visited the Council to view the computerised records of its dealings with Ms Adams during the events covered by this complaint. He has also met with Ms Adams.
3. For legal reasons¹, the name of the complainant used in this report is not her real name.

Legal and Administrative Background

Housing and Council Tax Benefit

4. Housing benefit and council tax benefit are national welfare benefits that are usually administered by local authorities. The schemes provide assistance for people on low incomes to pay their rent and council tax. Entitlement to benefit is subject to the law² and regulations³.
5. Any entitlement to housing and council tax benefit will depend on a number of factors including when a claim is made, the claimant's liability to pay rent and/or council tax, the composition of the household and the claimant's income. If the claimant lives in Council rented property, is the only adult in the property and in receipt of income support, then they will usually be entitled to have their rent and council tax payments met in full by housing/council tax benefit. Payments will be made direct to the respective rent and council tax accounts by the Council. If a claimant is not in receipt of income support then eligibility to housing/council tax benefit will depend on comparing their income from wages/other state benefits (some of which may be disregarded) with a notional income figure for the minimum needs of their household, known as the "applicable amount". Where income exceeds the applicable amount, then a tapering calculation applies which means that a claimant may still get some help towards their rent and council tax, but may not have these commitments met in full.

1 Local Government Act 1974 ("the 1974 Act"), section 30(3).

2 Principally the 1992 Social Security Contributions and Benefit Act (as amended).

3 Principally SI 1987 No. 1971 the Housing Benefit (General) Regulations (HBR) & SI 1992 No. 1814 the Council

6. As a general rule, the date entitlement to housing and council tax benefit commences will usually be on the first Monday after a claim is made.⁴ But a person can ask for their housing and council tax benefit entitlement to be backdated for up to 52 weeks earlier.⁵ The local authority is obliged to backdate the date of entitlement if it determines that a claimant has “good cause” for not claiming sooner and that the “good cause” has run continuously up to the time the backdate request has been made.
7. Where a person claiming housing/council tax benefit has a change of circumstances such as a change of income, they are expected to bring this to the attention of the Council within four weeks of the change taking place.⁶ The Council will then amend their claim to take account of the change, from the Monday after the change occurs.
8. When administering claims for housing and council tax benefit, the Council is entitled to ask the claimant for “certificates, documents, information and evidence” so long as these are “reasonably required” in order to determine entitlement. If the Council is not able to process a claim because it requires such evidence then it must request this of the claimant and must allow at least four weeks for them to comply with the request.⁷
9. Where a claimant disagrees with a decision on housing or council tax benefit entitlement they are entitled to request an appeal of that decision. This should usually be made within four weeks of the decision under appeal. Government advice⁸ is that a Council should consider any such request in the first instance, to see if its decision can be revised. If the decision is not revised in the claimant’s favour then the Council should pass the appeal request to an independent tribunal service, known as the Appeals Service. Because this independent service exists to examine the merits of housing/council tax benefit schemes I rarely investigate the decision on entitlement itself.⁹
10. While there is no statutory time limit on how long a Council has to process an appeal against a decision, government advice is that where a case is being referred to the Appeals Service then this should take no longer than four weeks.¹⁰ In February 2004 I published a special report¹¹ which amongst other things, recommended that local authorities should:
 - make sure all correspondence on review and appeal requests is fast tracked, and progress on each appeal case is monitored to meet the four week

Tax Benefit (General) Regulations (CTBR).

4 HBR 72(5)(c) and CTBR 62(5)(d).

5 HBR 72(15) & CTBR 62(16).

6 HBR 75(2) & CTBR 65(2).

7 HBR 72 & 73 & CTBR 62 & 63.

8 contained in HB/CTB Circular A11/2001.

9 1974 Local Government Act Section 26(6)(a).

10 Circular HB/CTB A20/2003.

11 Advice and guidance on arrangements for forwarding housing benefit appeals to the Appeals Service.

deadline;

- instigate a system which identifies and gives special priority to those cases where there are particularly difficult personal circumstances, such as a threat of eviction to the claimant;
- ensure the housing benefit and housing departments liaise where there is an outstanding appeal by a council tenant.

The recovery of rent arrears

11. Most Council tenants have secure tenancy agreements. This means that their eviction can only be pursued by the Council in certain specified circumstances, including where the tenant has rent arrears. However, eviction on these grounds will be at the discretion of the County Court. The first stage of eviction proceedings will be for the Council to issue a Notice of Seeking Possession, explaining the grounds on which eviction is being sought. The Notice will set a date (at least four weeks in advance) at which the Council can go to Court and ask it to make a possession order, leading to the eviction of the tenant. Should a case proceed to a hearing, then the Court has discretion to make an outright possession order, or suspend such an order on such terms as it considers reasonable (in rent arrears cases this will usually be on condition that a tenant reduces arrears by way of weekly repayments). A Notice of Seeking Possession is valid for twelve months. So, if no further action is taken within that time to repossess the property, the Council must serve a further notice.
12. Northampton Borough Council's policy for recovery of rent arrears says that once a tenant is six weeks in arrears on their rent account that this should be regarded as a "significant debt" and that usually a Notice of Seeking Possession should be served. However, the policy says that "there may be circumstances" where serving such a Notice is not appropriate, although it does not elaborate.
13. The Council's policy goes on to say that if, following service of the Notice of Seeking Possession the Council is considering taking the case to Court, but housing benefit entitlement is "an outstanding issue", then referral should be made by the Housing Department to the Benefit Services via the Rent and Benefits Liaison Officer. This is with a view to trying to resolve the situation and "thus make it clearer if a referral to Court is still appropriate". The Liaison Officer is described as "the main communication conduit" between departments. Once the case has been referred to the County Court then the policy goes on to advise that "if housing benefit is an outstanding issue every effort should be made to secure all necessary information to have the claim processed and to prevent adjournments".

The recovery of council tax arrears

14. The 1992 Local Government Finance Act and Council Tax (Administration and Enforcement) Regulations 1992 set out the legal framework that a local authority can use to pursue recovery of a council tax debt from a council tax payer. So long as the appropriate notices have been sent, then this includes going to a Magistrates Court

and asking that a Liability Order be given, which is an all purpose order entitling the Council to consider a range of options for recovering the outstanding debt. Amongst the options given to the Council it can instruct bailiffs to collect the debt or apply to the Department of Work and Pensions for a direct deduction of benefit, if the council tax payer is in receipt of income support.

15. Northampton Borough Council's policy for recovery of council tax arrears says that prior to seeking a summons to the Magistrates Court for non payment, if the charge payer is "elderly, disabled [or] otherwise vulnerable", then "consider suppressing (summons) and requesting home visit". The policy gives no advice on what to do if there are outstanding council tax benefit claims that may give rise to money being sent across to the council tax account.
16. The Council's policy goes on to say that if the Council is successful in obtaining a liability order following a Court summons then consideration can be given to instructing bailiffs to collect any outstanding debt. However, as an alternative, officers can set up direct deductions from benefits, through the Department of Work and Pensions, where applicable.
17. If officers intend passing a debt to bailiffs they are advised "if there is an outstanding benefit claim check HBIS (the Housing Benefit computer system) to review position and decide if you wish the claim to be passed to bailiffs. If the indication is that full benefit will be granted do not pass to bailiffs". Officers are also advised again that "if the charge payer is elderly/disabled/vulnerable then consider home visit or send a letter".
18. In addition to the above, there is also a service level agreement between the Council and the private bailiff company Equita Ltd, which collects such debts on its behalf. This says that the bailiff should "give full consideration to any mitigating or vulnerable conditions and seek advice and approval of [the Council] before proceeding with recovery action in the following circumstances: [including] serious illness/long term illness".

Investigation

19. Ms Adams is a tenant of the Council. She is a single parent who lives with her daughter, who was aged 14 at the start of the events covered by this investigation. Prior to 4 April 2005, her weekly rent was £63.42, rising to £65.02 thereafter. Ms Adams was diagnosed with leukaemia approximately 18 years ago.
20. Ms Adams has explained to my investigator that her illness causes various problems including tiredness and lethargy. She has also had to undergo regular treatments of chemotherapy which can cause sickness and additional fatigue. However, prior to September 2004 Ms Adams was in full time employment and had not claimed any housing or council tax benefit. Around this time her condition worsened and starting

in November 2004 Ms Adams made the first of four separate claims for housing and council tax benefit, to reflect her changed circumstances.

The Actions of the Benefit Services

Ms Adams' first claim for housing and council tax benefit

21. On 24 November 2004 Ms Adams submitted her first claim for housing and council tax benefit. Her claim was for backdated benefit for the period from 27 September 2004 to 25 October 2004 when she had been claiming statutory sick pay. Ms Adams said that she had gone back to employment from 25 October 2004 with a different employer.
22. On 8 December 2004 the Council refused Ms Adams a backdated award of benefit. It said that she had failed to establish "good cause" for the benefit to be paid.
23. Ms Adams appealed this decision. The date when the appeal was made is not known as the Council cannot locate a copy of the letter requesting appeal. But on 14 January 2005 the Council asked for more information further to the request. The Council requested a note from her doctor "to support [the] contention" that she was prevented from claiming due to ill health. Ms Adams replied to that letter on 24 January 2005. She said that her doctor would only provide such evidence on payment of a fee.
24. On 1 February 2005 the Council again requested that Ms Adams provide "medical evidence to support her request" for backdated benefit and said this must be provided by 11 February 2005. On 9 February Ms Adams gave the Council a copy of a sick-note previously submitted to her employers that identified she had been off work as of 8 October 2004 due to stress.
25. The Council did not take any further action in respect of this claim for backdated benefit until 27 October 2005 (when Ms Adams had engaged the assistance of a Welfare Rights Adviser). On that day the Council reviewed its decision and agreed to pay backdated benefit. On 31 October this resulted in a payment of £131.16 in housing benefit being paid to Ms Adams' rent account. Ms Adams was not entitled to have her rent met in full for this period as her income exceeded her applicable amount.
26. On 17 February 2006, the Council subsequently revised this award having realised it had calculated it incorrectly. It calculated that Ms Adams had a total entitlement of £165.44 in housing benefit for this period, meaning that an additional payment of £34.26 should have been sent across to her rent account and £11.86 towards her council tax. However, due to an error the Council paid £165.44 to Ms Adams rent account on 20 February 2006. On 8 January 2007, the Council advised that it was considering writing off the overpayment of £131.16 that occurred as a result.

Ms Adams' second claim for housing and council tax benefit

27. Ms Adams made a further claim for housing and council tax benefit on 8 December 2004. She had stopped work due to ill health and claimed income support. She completed claim forms both through the Department of Work and Pensions and with the assistance of a Housing Officer. On 24 January 2005 Ms Adams provided a letter to the Council she had received from the Department of Work and Pensions to say that she was entitled to income support as from 15 December 2004. The Council confirmed these details with the Department of Work and Pensions on 25 January 2005. Ms Adams has told my investigator that she was unable to confirm her entitlement to income support before January due to delay in being seen by the Department of Work and Pensions. She also attributes the non payment of income support for the period 8 December to 15 December 2004 to this delay.
28. On 1 February 2005 the Council put this claim into payment. The start date for the claim was from 20 December 2004, the Monday after Ms Adams began receiving income support. The Council refused to backdate the claim before this date as it considered there was no "good cause" for it to do so.
29. On 7 February 2005 Ms Adams submitted a letter of appeal against the refusal of the backdated award. She said she wanted to claim to 7 December as this was when she first claimed income support, but had not been able to obtain an interview at a Job Centre to pursue this claim until 23 December 2005.
30. The Council took no action on receipt of this letter. However, in response to correspondence from Ms Adams' representative, it said on 13 October 2005, that it had no record of Ms Adams appealing the decision of 1 February.
31. On 30 January 2006, after further representations from Ms Adams' representative, the Council recognised it had made a mistake in its letter of 13 October. It also said it would allow a backdated award for the period 7 December to 19 December 2004. However, on 7 February 2006 the Council wrote again saying it could not process the request without knowing Ms Adams' income for the period in question and asked for a bank statement. The bank statement was provided on 16 February 2006.
32. However, as of 5 January 2007, no further action had been taken to put this claim into payment.

Ms Adams' third claim for housing and council tax benefit

33. On 1 March 2005 the Council was advised by the Department of Work and Pensions that Ms Adams was no longer in receipt of income support as she was working over 16 hours a week, effective from that date. So, the Council cancelled her housing and council tax benefit from 6 March 2005 (the Sunday after income support ceased).
34. On 7 March 2005, Ms Adams submitted a fresh claim for benefit based on her earnings. And by 30 March she had sent the Council a copy of her first wage slip, a working tax credit award and bank account details. The Council put the claim into

payment on 15 April 2005 (with a start date of 7 March 2005). It asked Ms Adams to provide copies of her revised tax credit award and further wage slips as and when these were received. Ms Adams provided the Council with a copy of her second wage slip on 27 April 2005. Ms Adams was notified of a revised tax credit award on 15 July. The Council has a record of receiving these details on 19 August 2005. However, Ms Adams believes that she passed them to the Council sooner.

35. During the period 7 March to 17 May 2005, Ms Adams was not entitled to have her rent and council tax commitments met in full through the benefit scheme, as her income exceeded her applicable amount.

Ms Adams' fourth claim for housing and council tax benefit

36. On 17 May 2005 Ms Adams submitted another claim for housing benefit and council tax benefit. She declared on the form that she had claimed income support again and that she had long term sickness. Ms Adams says that she had once again been forced to stop work due to ill health. In particular, she was becoming extremely fatigued due to the travel time involved in commuting as well as her hours of work.
37. In comments to my investigator, the Council has said that due to a backlog at this time this claim was not "allocated for assessment" until 12 July 2005. On 15 July 2005 the Council made an enquiry of the Department of Work and Pensions to see if Ms Adams was receiving income support. The Department advised that Ms Adams had been refused income support. There is no record that the Council contacted Ms Adams to make further enquiries about her income at this time.
38. On 11 August 2005 Ms Adams was visited by her Housing Officer. She advised that she was receiving incapacity benefit and proof of this was provided to the Housing Department on 12 August. The notification letter was dated 30 June 2005 and confirmed Ms Adams had been entitled to incapacity benefit since 13 May 2005. When Ms Adams was awarded incapacity benefit her entitlement to working tax credit came to an end.
39. On or around 22 August 2005 the Council amended Ms Adams' benefit claim as it received notification that she was now receiving income support. However, it did not amend the claim for the period 17 May to 21 August or make further enquiries to establish Ms Adams' income for this period.
40. On 25 October 2005 Ms Adams' Welfare Rights Adviser wrote to the Council saying Ms Adams had claimed incapacity benefit on 1 May 2005. He explained that it had taken eight weeks for the claim to be assessed. His letter said that "my client is very ill and is suffering from leukaemia [...] she is receiving treatment every two weeks". On 27 October 2005 Ms Adams' GP provided supporting information as to her condition. He said that Ms Adams' was suffering from nephrotic syndrome, hypertension and asthma and that her leukaemia treatment was making her suffer "non specific weariness and fatigue".

41. On 30 January 2006 the Council said it would not revise the claim for the period May to August 2005 as Ms Adams had not requested backdating for this period.
42. On 2 February 2006 Ms Adams again provided, via her adviser, proof of her Incapacity Benefit award commencing on 13 May 2005. On 16 February 2006 Ms Adams wrote to the Council requesting that it backdate her benefit award to reflect her change of circumstances.
43. On 17 March 2006 the Council amended the claim. It amended her benefit claim to reflect her award of incapacity benefit from 17 May 2005 onwards. The Council calculated that Ms Adams' correct entitlement to benefit for the period 2 May to 21 August 2005 was £757.30, having already paid her £320.36 for this period in housing benefit based upon her wages and tax credit entitlement. So, a net payment of £436.94 should have been sent to her rent account. But in the event, on 20 March 2006, the Council sent a payment for the full amount of £757.30 to her rent account. So Ms Adams was overpaid housing benefit of £320.36. She was also overpaid council tax benefit to the value of £15.06.
44. On 6 July 2006 the Council commenced recovery of the overpayment of £320.36 referred to above at a rate of £8.70 a week, deducting this amount from Ms Adams' ongoing housing benefit. The Council has provided a copy of a letter it sent to Ms Adams on 5 July 2006 advising of this action. This says that Ms Adams should have received an earlier letter explaining how this overpayment arose. However, the Council has not provided a copy of that letter and Ms Adams says she received neither an explanation of the overpayment nor any notice that the Council was to deduct ongoing benefit to recover it. As of 11 December 2005, the Council had recovered £240.90 of the overpayment, leaving £79.46 outstanding which has not been recovered to date.

The Actions of the Housing Department

45. On 27 July 2004 Ms Adams had been served with a Notice of Seeking Possession. Her rent account at that time was approximately £500 in arrears. By 27 September 2004 the arrears had decreased to £400.78. However, only sporadic payments were made by Ms Adams thereafter and by 10 January 2005 she was £796.94 in arrears.
46. The arrears stabilised once Ms Adams' second claim for housing benefit was put into payment on 1 February 2005. Between 20 December 2004 and 28 March 2005 Ms Adams made 10 payments to her rent account equivalent to £2.80 a week (although payments were not made every week). By the time she returned to work on 7 March, Ms Adams rent arrears were £777.34.
47. Ms Adams' arrears increased in early April as a result of benefit adjustments relating to her third claim for benefit. But on 25 April she made a payment of £222 which reduced the arrears to £626.10. And on 5 May 2005 the Council asked her to maintain payments at £230 a month based on her circumstances at that time.

48. However, by early May Ms Adams was no longer working. She was not able to make payment in line with that advice and paid less than £10 towards her arrears throughout May and June 2005. As a consequence of this non-payment, and the fact that her housing benefit had not been adjusted to take account of the change in her circumstances, Ms Adams' rent arrears increased to £1163 (equivalent to approximately 18 weeks arrears). Ms Adams was visited at home by a housing officer on 17 May and advised at that time that she was not working due to ill health.
49. On 15 July 2005 Ms Adams was asked to attend an interview with a Rent Income Officer to discuss her arrears. The Council's computerised records say that Ms Adams contacted the Council to say she could not attend at the suggested date/time due to a hospital appointment.
50. On 11 August 2005 Ms Adams was again visited at home by a Housing Officer. She advised the officer she was in receipt of incapacity benefit and provided proof of this on 12 August 2005 (see paragraph 38 above).
51. On 15 August 2005 the Council issued a Court Summons. There is no record that it served a further Notice of Seeking Possession to that served on 27 July 2004. At this point in time her rent arrears had increased further to £1476.34. There are no records to suggest that the Housing Department made checks with the Benefit Services to see if any changes to Ms Adams' benefit entitlement were pending at that time, further to her providing proof of her incapacity benefit.
52. In response to the Summons, Ms Adams contacted the Housing Department on 19 August 2005. The computerised notes indicate that Ms Adams said she had made backdated benefit claims and that her current circumstances meant her income was equivalent to income support levels. There is again no record of the Housing Department checking with the Benefit Services to see whether any changes to Ms Adams' benefit may have been pending.
53. From 22 August 2005 onwards, Ms Adams' rent arrears stabilised as a result of the action taken described in paragraph 39. And from 5 September 2005 Ms Adams started making regular weekly payments of £2.85 to her rent account. On 23 September 2005 the Council said it would be prepared to agree to a suspended possession order so long as these £2.85 payments were maintained. However, Ms Adams has told my investigator that she was concerned as the Council would not put this advice in writing. The computerised notes from this time say that the "tenant has other issues about [housing benefit] which I advised her to contact them for".
54. On 4 October 2005 the repossession hearing was heard at Northampton County Court. The District Judge agreed to adjourn the hearing so that checks could be made of Ms Adams' benefit entitlement.

55. Throughout October 2005 Ms Adams and her Welfare Rights Adviser were in regular contact with the Council's Housing Department. On 8 November 2005 the Housing Department was advised that a backdate of Ms Adams' first claim for benefit had been agreed, which resulted in a payment of £131.16 (see paragraph 25). On 9 November 2005, the Department's Liaison Officer queried if this was all the housing benefit that was due to Ms Adams. On 29 November 2005 the Housing Department records that it was advised by the Benefit Services "that award of benefit had been made".
56. On 6 December 2005 the case was returned to Court. Ms Adams and her adviser were not satisfied that all outstanding benefit issues had been resolved. The District Judge agreed to a further adjournment.
57. Following this second adjournment there is no record of further discussions between the Benefit Services and Housing Department to discuss Ms Adams' claims. The case returned to Court on a third occasion on 10 January 2006, where it was again adjourned. The District Judge instructed a senior benefit officer to come to Court to explain the benefit position at the next hearing.
58. On 24 January 2006 the Council's computerised notes indicate further discussions between the Housing Department and Ms Adams regarding her request for her fourth benefit claim to be amended to the time when her incapacity benefit commenced (May 2005). Ms Adams pointed out that she had given the Council a copy of her notification letter, but the notes record that she was told "we had not had proof of income".
59. On 7 February 2006 a fourth repossession hearing took place at Northampton County Court. Despite the Court order, nobody from the Benefit Services attended. In reply to my investigator's enquiries the Council has said that this was due to the ill health of an officer who was due to attend on the day. The Housing Department notes record the Court being told by the Council at this hearing that "Ms Adams has only just provided proof of her ICB (incapacity benefit)". The Court decided to adjourn the case once more and ordered a fifth hearing, again requesting the attendance of the Benefit Services.
60. On 21 February 2006 the Liaison Officer sent a further email to the Council's Benefit Services asking it to complete the outstanding assessment of Ms Adams' claims. A further email to this effect was sent on 16 March 2006. But it was not until 29 March 2006 that the Housing Department was advised by the Benefit Services that Ms Adams' fourth benefit claim had been adjusted.
61. A fifth repossession hearing was heard at Northampton County Court on 21 April 2006. By this time the £757.30 payment of housing benefit (see paragraph 43) had been sent across to Ms Adams' rent account, meaning her arrears had reduced to £332.23. In these circumstances, the Council proposed a general adjournment of the case and made no request for costs.

62. Ms Adams has told my investigator that being taken to the Court by the Council caused her a lot of stress and worry as she feared she would lose her home. She has told my investigator that she was physically sick prior to the Court hearings on more than one occasion, as a result. She says that she felt the Council officers who attended Court were unsympathetic to her circumstances.
63. On 20 March 2007, Ms Adams rent arrears had increased to £448.53. This is as a result of the Council recovering the housing benefit overpayment referred to in paragraph 44 above, and Ms Adams not paying the resulting shortfall, until this complaint had been resolved. On 26 March 2007 the Council wrote off these arrears as part of its offer to settle this complaint.

The Actions of the Revenues Department

64. In December 2004 Ms Adams cancelled a direct debit arrangement she had made to pay her council tax. The Council has recorded that she had advised the Revenues Department via a telephone call that this was due to her ill health and claiming for council tax benefit at that time.
65. On 17 and 27 January 2005 Ms Adams was in further contact with the Revenues Department to say that she was awaiting the resolution of her benefit claims. Ms Adams contacted the Department again on 23 March 2005, to advise she had returned to work and was awaiting wages. By this time there were arrears of £195 on the 2004/2005 council tax account. The Council asked Ms Adams to clear these arrears in three instalments between April and June 2005 (this would be in addition to payments that would become due as a result of the new financial year from 1 April 2005).
66. On 12 April 2005 Ms Adams contacted the Revenues Department to say she could not afford this payment arrangement. There is no record that any enquiries were made to ascertain details of Ms Adams' income and the Council proceeded to issue a Court summons for the outstanding arrears due on the 2005/2006 account. On 4 May 2005 Ms Adams wrote to the Council offering to pay £2.60 a week towards the arrears. In the letter she advised she was in poor health and suffering from leukaemia.
67. There is no record of the Council replying to the letter of 4 May 2005. By 12 May 2005, the Magistrates Court had granted the Council a liability order for the arrears and the Council sent a letter to Ms Adams saying it was intending to send the debt to bailiffs to collect. In response, Ms Adams again told the Council she was no longer working and had made a claim for Income Support and Incapacity Benefit. In the light of this information the Council agreed to accept payments from Ms Adams at a rate of £2.60 a week.
68. On 11 July 2005 the Council looked again at Ms Adams' case as she was not making any payments towards her arrears. On its computer systems there is a note

that a query would be made by the Revenues Department of the Benefit Services to check Ms Adams' entitlement to council tax benefit. It is not clear if this was done or, if it was done, whether the Benefit Services clarified the position.

69. In either event, on 16 August 2005 the Council sent a further letter to Ms Adams indicating it was once more considering passing collection of council tax arrears to bailiffs. Ms Adams replied by writing on the back on the letter "I cannot get through on the telephone ever. In receipt of Council Tax benefit. Do not send again!! From 13 May – Incapacity Benefit" and "could you please re-advise of my arrangement to clear by return".
70. There is no indication that the Council wrote to Ms Adams in direct reply to her comments. However on 20 October 2005, it sent her a letter asking about her income. Ms Adams replied indicating she was on Incapacity Benefit. Again, there is no record of the Council replying to her on receipt of this information. A note on the Council's computer system dated 25 October 2005, says that the Council tried to obtain a direct deduction from her benefit at this time but was unable to do so (the reason why is not recorded). On 8 November 2005 the Council passed the case to its bailiffs to commence recovery.
71. On 29 November 2005, Ms Adams contacted the Council in connection with her council tax arrears to explain her current position with regard to her income and benefits. However, the Council did not recall the debt from the bailiffs and they went on to collect approximately £100 from her.
72. On 14 December 2005, during the course of collecting the debt, Equita bailiffs contacted the Council to say that further to a visit to Ms Adams, she had "claimed disability". There is no record that any discussion took place between the Council and its agents to assess whether this meant Ms Adams was a "vulnerable person" in line with its collection policies and service level agreement.
73. As of 20 March 2007 Ms Adams owed £187.39 in outstanding council tax for the 2004/2005 and 2005/2006 financial years. This amount included the £15.06 overpayment of council tax benefit referred to at paragraph 43 above. The Council continued to send demands for these amounts despite a request from my investigator that collection be put on hold until this complaint investigation is concluded. However, on 27 May 2007 the Council agreed to write off this amount as part of its settlement of this complaint.
74. Commenting on a draft of this report, the Council has acknowledged that the "level of service received by Ms Adams has fallen well below the level of service we regard as an authority to be acceptable". The Corporate Director for Customer and Service Delivery has met with senior officers in the Benefit and Rent sections to discuss the events covered by the complaint and as a consequence, the Council has identified the following service improvements:

- there have now been “wholesale changes” in the staffing of the team dealing with appeals;
- extra quality checks have been introduced to try and improve the quality of benefit assessments and avoid mistakes;
- since February 2007 the Council has been using a Data Image Processing system to try and reduce the number of losses of correspondence provided by benefit claimants;
- a benefit check is now being made on all cases where Court proceedings have been initiated “at point of entry to Court” and Benefit Services will provide the Housing Department with a statement of the benefit position before any case goes to Court;
- a benefit assessment will be carried out within 24 hours of a benefit claim being made in the event that the Council has initiated court proceedings for repossession against that claimant;
- the position of Benefit Liaison Officer has been “redefined” so as to ensure that the officer gives greater priority to the most urgent cases;
- “improved management systems” have been introduced to ensure attendance at Court of a benefit officer where required;
- “improved management systems” have also been introduced to prevent recurrence of the circumstances that led to a Council tax summons being served in this case;
- where the Council is considering using bailiffs to collect outstanding council tax, cases will no longer be transferred automatically; instead a council officer will need to make a “manual referral”; in addition there will be monthly liaison meetings between the Council and bailiffs to consider “potentially vulnerable” cases.

Conclusions

75. All local authorities must be aware of the implications when a citizen who is both a tenant of the Council and a council tax payer claims housing and council tax benefit. Such claims are only likely to be made where the person is on a low income and so may experience difficulties paying rent or council tax without assistance from these benefit schemes. So unless there is efficient administration of housing and council tax benefit claims this can result in those claimants falling swiftly into rent and council tax arrears. It stands to reason therefore that not only should the Council make every effort to ensure efficient administration of the benefit scheme but also ensure it has systems in place to identify when benefit may be payable to offset arrears and so avoid unnecessary recovery action. On this occasion I consider the Council failed to meet these basic standards of good administrative practice. It made a series of errors in administering Ms Adams’ benefit claims and in deciding to take recovery action while these claims were unresolved.
76. When Ms Adams first claimed housing and council tax benefit in November 2004, the Council initially made a decision in good time. But it then failed to process a

request for appeal on backdating made on 9 February 2005 until 27 October 2005. I consider 28 days to be a reasonable timescale in which appeals should be processed, unless there are exceptional circumstances. None applied here and so the Council delayed excessively by seven months in processing the appeal. Then, when the appeal was upheld and the claim put into payment, the Council failed to pay the correct amount of benefit as a result of an arithmetical error. This meant Ms Adams was underpaid benefit for a further three months. The handling of this backdating request was maladministration.

77. The Council repeated its failings when processing of Ms Adams' second benefit claim made on 8 December 2004. Once again there was excessive delay in processing an appeal request; Ms Adams appealed on 7 February 2005, but no action was taken to review the decision until 30 January 2006, an unacceptable delay of ten months. And even though the Council then said it would agree to the appeal and pay benefit on the basis of Ms Adams providing details she gave it on 16 February 2006, the Council failed to carry out the assessment. I am aware that only one week's benefit entitlement is at stake here, but this is still a significant sum of money for someone living on state benefits. The Council's handling of this matter showed a lack of attention, giving incorrect advice on 13 October 2005 that Ms Adams had not appealed the decision in question and in then failing to act on the information provided on 16 February 2006. The handling of this backdating request also amounted to maladministration.
78. Further more serious administrative failings took place when Ms Adams was forced to give up her employment and claim benefit again in May 2005. First, the Council failed to give any attention to Ms Adams' claim based on a change of circumstances for seven weeks, well outside the 28 days that I would expect the Council to meet for such claims. Second, and far more seriously, the Council failed to amend the claim to take account of Ms Adams' incapacity benefit until on or around 17 March 2006. This was over seven months after Ms Adams had given the Council a copy of the letter proving her entitlement to that benefit. This delay was maladministration.
79. Looking at the cause of this delay, I consider the Council missed opportunities to clarify Ms Adams' claim and put it into payment correctly. First, it failed to ask Ms Adams for details of her income in July when it was being told by the Department for Work and Pensions she was not in receipt of Income Support. Second, it also failed to realise it had paid Ms Adams incorrectly for the period May to August 2005, when it amended the claim in August. Third, it failed to check its systems sufficiently in reviewing Ms Adams' entitlement in October 2005, when the evidence that she had provided proof of her incapacity benefit on 12 August 2005 was overlooked. These failings were maladministration.
80. It seems that between October 2005 and March 2006 the Council was labouring under a misunderstanding that it could only amend Ms Adams' claim on receipt of a separate backdate request. This should not have been necessary as Ms Adams

evidently completed a housing benefit form at the time she claimed incapacity benefit.

81. All of the above failings also took place against the backdrop of Ms Adams facing the threat of eviction as a result of the Council's decision to pursue recovery action through the Courts from August 2005 onwards. The knowledge that this action was proceeding should have lent both extra care and urgency to the Council's processing of Ms Adams' benefit claims. But the evidence is that even in the light of these proceedings, no extra priority was given to resolving Ms Adams' benefit claims, with the Council even failing to comply with the order of the County Court to resolve the benefit position as a matter of urgency. This was maladministration.
82. The facts do not reflect well on the actions of the Council's Housing Department either. The Council possibly erred in launching Court proceedings when over twelve months had elapsed since it had served Ms Adams with a Notice of Seeking Possession. However, I am conscious that Ms Adams had never reduced her arrears to a level where it would have been inappropriate for such a Notice to be served upon her, prior to commencing claims for benefit. But it represents a serious escalation in recovery to proceed beyond the Notice stage to take the matter to Court. The Council's policy recognises this might not be appropriate where benefit entitlement could be at issue and that appropriate checks should be made at this stage. But there is no record that the Council did this, at a time when a cursory glance at the housing benefit claim then in payment would have revealed that Ms Adams was still being paid such benefit as if in employment. The Council's failure to make this check was maladministration.
83. Thereafter there is no evidence that the Council adhered to its policy of making "every effort" to resolve housing benefit entitlement prior to the matter coming to Court. Indeed, prior to the first Court hearing on 4 October 2005 the evidence is that the Council made no effort at all. Instead it put all the onus on Ms Adams to resolve her outstanding claims with its advice to her on 23 September 2005. This was maladministration.
84. I also have to query the effectiveness of the Council's liaison between departments during the events covered by this complaint. There was no contact between the designated liaison officer in the Housing Department and the Benefit Services until after the first court hearing at which Ms Adams' case was considered. But even after such contact was made it seems the Housing Department attached no urgency to resolving matters, content to let the matter return to Court in the absence of proper clarification from the Benefit Services as to the status of Ms Adams' claims. I consider this further failure to make "every effort" to resolve the benefit claims was maladministration.
85. I consider that the Housing Department must also share some culpability for the confusion that arose in the processing of Ms Adams' claim based on her incapacity, made in May 2005. It, too, overlooked the information that Ms Adams had given it on

12 August 2005 as to her entitlement to Incapacity Benefit. One consequence of this was that the Council gave incorrect evidence to the County Court in the hearing on 7 February 2006 that Ms Adams had not provided the required evidence to support her housing benefit claim. This could have had very serious implications for the decision taken by the Court.

86. I can also take no comfort from the actions of the Council in recovering council tax arrears from Ms Adams. There is no record that at any time did the Council's Revenues Department make serious attempts to check Ms Adams' benefit entitlement and outstanding claims, to see what impact this might have had on her arrears and ability to repay those arrears. I consider it should have done this before issuing a Summons to Ms Adams in April 2005 and on the contact it received from her on 16 August 2005. The failure to make these basic checks was maladministration.
87. The Council then compounded these failings in its collection of council tax by referring the council tax account to the bailiffs in November 2005. I can find no trace that it considered whether this action was justified in accordance with its policy for collecting debt from vulnerable council tax payers. Knowing Ms Adams to have a serious chronic health condition and to be living on a low income I can see no justification for its decision at that time. In my view, officers should have visited in accordance with its policy to discuss her arrears. And again the Council has compounded its failing on this point, failing to recall the debt from its bailiffs despite the bailiff also raising the subject of Ms Adams' health on 14 December 2005. These actions by the Council in pursuit of a vulnerable tax payer were maladministration.
88. Notwithstanding all of the above and recognising her state of health, Ms Adams has some responsibility in leaving herself open to some recovery action from the Council. It is evident that she had rent arrears that pre-dated the events covered by this complaint. It is also evident that between April and November 2005 there were no payments at all being made towards her council tax. I also recognise that to some extent Ms Adams has been the beneficiary of Council errors as well as the victim. Had the Council adjusted her benefit correctly on 20 February and 20 March 2006 then her rent arrears would actually have been around £450 higher on 21 April 2006. In these circumstances I think it unlikely the Council would have agreed a general adjournment of the case and, instead, Ms Adams may now have found herself subject to a suspended order of possession.
89. Nonetheless Ms Adams has suffered significant injustice as a result of the Council's maladministration. The benefit claims she submitted in November and December 2004 and in May 2005 were all subject to far too much delay and confusion as a result of the Council's errors. The evidence shows that between December 2004 and May 2005 Ms Adams paid regularly towards her rent arrears. It was only after this date, when she was forced to give up work and when the Council failed to reassess her benefit in a timely and efficient manner that Ms Adams' contributions faltered. Because of the confusion surrounding her benefit claims, Ms Adams' did not know what she should be paying. In addition, the Council's decisions to pursue recovery of rent and council tax arrears in the knowledge that her benefit entitlement had not been resolved left her suffering significant avoidable distress. First, she had to experience the trauma of having to attend the Court so many times while her benefit claim was unresolved. Second, she had to experience the distress of dealing with bailiffs who sought recovery of her council tax arrears, in a way that was

contrary to Council policy regardless of Ms Adams' own non-payment towards arrears.

90. I welcome the commitments the Council has given to improve its processing of benefit claims and appeals, and in respect of its recovery procedures. I hope that these prevent a recurrence of the events covered by this complaint, as the Council believes they will. I trust that as part of its revised procedures the Council will not pursue repossession or recovery of council tax arrears where there is a realistic possibility that payment of benefit will reduce arrears to a level where these steps would not otherwise be undertaken. I also hope the Council will consider ways in which it can take a holistic approach to debt recovery when one of its citizens owes money towards rent, council tax arrears and overpayments of benefit.

Finding

91. For the reasons given above I find that there has been maladministration causing injustice to Ms Adams. The Council has taken, or has agreed to take, the following action to remedy the injustice she has suffered:

- It has apologised to her;
- It will write off the outstanding housing benefit overpayment of £79.46;
- It has written off the outstanding balance on Ms Adams' council tax account of £187.39;
- It will make a payment of one week's housing and council tax benefit for the week commencing 7 December 2005 (as promised on 7 February 2006); or else it will pay financial compensation equivalent to one weeks rent and council tax liability;
- It has paid additional financial compensation of £1865 to Ms Adams (this amount is equivalent to £2500 minus the amounts already written off on her rent and council tax accounts).

I am grateful for the Council's acceptance of my recommendation for compensation here, but I have completed my investigation and issued this report because the complaint raises matters of public interest.

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