

North Tyneside Council

Report to Cabinet

Date: 9 MAY 2016

ITEM 6(g)

Title: Report of the Local Government Ombudsman

Portfolio(s): Finance and Resources,
Housing and Transport

Cabinet Member(s): Councillors Ray
Glindon and John
Harrison

Report from Service

Area: Law and Governance

Responsible Officer: Vivienne Geary, Head of Law and
Governance

Tel: 0191 643 5339

Wards affected: All

PART 1

1.1 Executive Summary:

The Local Government Ombudsman (LGO) have issued a report dated 21 March 2016 finding maladministration causing injustice as a result of the way the Authority dealt with the rent account and benefit claims of Mrs X, the complainant, following the death of her husband. The LGO have proposed a recommendation of a payment of £200 to Mrs X. The Authority has agreed to this recommendation and has taken and proposes to take further actions as a result of this complaint.

1.2 Recommendation(s):

It is recommended that Cabinet:

- (1) note the findings and recommendations of the LGO as described in this report and set out in the LGO's report at Appendix 1; and
- (2) note the actions taken by the Authority to comply with the recommendations of the LGO's report.

1.3 Forward Plan:

Twenty eight days notice of this report has been given and it first appeared on the Forward Plan that was published on 1 April 2016.

1.4 Council Plan and Policy Framework

This report relates to the following priority in the 2014/18 Our North Tyneside Plan:

- (1) Our People will be listened to by services that respond better and faster to their needs.

1.5 Information:

1.5.1 Background

The details of this complaint and the findings of the LGO investigator are set out in Appendix 1.

Mrs X complained that following the death of her husband, the Authority:

- “threatened her with eviction;
- took too long to process her housing benefit and council tax support claims;
- sent her an excessive number of letters, notices and demands;
- behaved with incompetence and a lack of humanity which caused her emotional stress and anxiety.”

“At the beginning of February 2015 Mrs X’s husband died. Before his death, Mr and Mrs X were receiving housing benefit and council tax support from the Council. Mrs X is a council tenant. Shortly after Mr X’s death, Mrs X told the Department for Works and Pensions (DWP) and the Council about her change in circumstances. The Council could not calculate Mrs X’s council tax and housing benefits until the DWP had told it how much bereavement allowance it would pay her. As a result it suspended Mrs X’s benefits while it waited for the DWP figures.

The Council received the figures from the DWP on 14 March 2015. These figures were incorrect which meant the Council was unable to correctly calculate Mrs X’s benefit claims. During February and March 2015 the Council sent Mrs X three letters telling her she had outstanding rent arrears. The last letter said if she did not take steps to repay the debt, the Council would serve Mrs X a Notice of Seeking Possession for non-payment of rent.

The Council sent Mrs X two housing benefit decision notices on 10 March 2015, another two on 23 March 2015 and a further three on 7 April 2015. The figures and calculations in the notices were different every time. The Council also sent her three different council tax support notices on 23 March, 24 March and 13 April 2015.

On 7 April 2015 a Council officer visited Mrs X. The officer apologised for the number of notices Mrs X had received but explained if the Council made any changes to her benefits it had to inform her. The officer also told Mrs X the Council had failed to take into account the fact Mrs X fell into one of the exception categories under the Social Size Criteria Rules. Therefore her entitlement to housing benefit should have been protected for 52 weeks. As a result the Council would have to issue another decision notice. Mrs X received three decision notices on 7 April 2015. One of these contained the correct amount of benefit.

Mrs X says the number of letters and the contradictory figures they contained were confusing and caused her *“huge emotional stress and heartache after the death of [my] husband”*.

Mrs X complained to the Council about the way it dealt with her rent account and benefit claims following her husband’s death. During the complaints process the Council told Mrs X it was at fault because it did not follow its procedures and put Mrs X’s rent account on hold while it calculated her benefits. It has apologised to Mrs X and offered her £100 for the poor standard of service.”

1.5.2 Findings

The findings of the LGO were as follows:

“I am satisfied the actions the Council proposed during the complaints procedure to review its working practices will help to address the issues raised by Mrs X’s complaint.

It took the Council approximately eight weeks to correctly calculate Mrs X’s housing and council tax benefit. Although this is somewhat longer than I would expect, I do not find fault with the Council because it could not complete its calculations until the DWP had given it the correct amount of bereavement allowance Mrs X would receive. The DWP did not send the Council the correct figures until sometime after 14 March 2015.

Delays were caused by the Council when it forgot to apply the 52 week protection rule to Mrs X’s case. Despite this, the Council determined Mrs X’s benefits by 7 April 2015 which is less than three weeks after receiving the correct figures from the DWP. Therefore I do not find any fault in the length of time it took the Council to correctly calculate Mrs X’s benefits.

The Council issued Mrs X with multiple housing benefit and council tax support decision notices. Mrs X found this confusing; however the Council is legally obliged to inform residents in writing of any changes to their benefits. Some of the notices were issued because the Council did not receive the correct bereavement allowance figures. Others were issued because the Council failed to apply the 52 week protection rule to Mrs X. As a result there was only limited fault by the Council.

During the complaints process the Council said it was at fault because it did not follow its procedures and put Mrs X’s rent account on hold while it calculated her benefits. If it had done so, Mrs X would not have received the rent arrears letters. The Council has already apologised and offered Mrs X £100 because of the poor service she received.

The Ombudsman does not award compensation in the same way as a court would do; however, it will ask for a token payment as an acknowledgement of any avoidable distress, harm or risk caused by the fault. When doing this, the Ombudsman will take the complainant’s particular circumstances into account. Mrs X was very recently bereaved when she received the rent arrears letters. These caused her additional distress at a time when she was in a highly vulnerable position. The Council also failed to apply the 52 week protection rule which increased her confusion when she received additional housing benefit decision notices. Therefore, because of these particular circumstances I recommend the Council pay Mrs X a further £100 in addition to the sum it has already offered as an acknowledgement of the avoidable distress it caused to her.”

1.5.3 Recommendations

The LGO investigator has found maladministration and injustice against the Authority and has made the following recommendation, as set out under paragraph 32 of Appendix 1:

Due to Mrs X’s particular circumstances the LGO recommended the Authority should pay Mrs X £200 as an acknowledgement of the distress caused by these faults. This payment is to be made within six weeks of the decision.

1.5.4 Actions taken in response

The following actions have been taken in response to the LGO's recommendations:

1. £200 compensation has been paid to Mrs X
2. Staff have been reminded of the correct procedures and actions to follow when customer accounts should be put on hold;
3. The Authority has changed its procedures so officers now have greater accountability when rent accounts are put on hold;
4. The Authority have reviewed its bereavement expertise and moved this to its support team which it feels is best placed to provide this type of support.

The Authority also plans to review its letters with customer service representatives who will provide a customer perspective on this.

1.5.5 Officer Comments

Officers have accepted the findings of the Ombudsman's report and have taken immediate action to ensure all relevant procedures are in place to avoid any repeat of this incident. Compensation was paid directly into Mrs X bank account within 48 hours of notification of the Ombudsman's decision.

This is a very unfortunate case, much outside the normal, and extreme in the number of letters that was generated, further compounded by an error around protection, which was missed in the initial calculations. However as there is a legal requirement that letters are issued so that the claimant has an accurate record of all decisions made on the claim, and can appeal accordingly against any element of the decision that they do not agree with, the Authority would not be administering housing benefit correctly if we didn't issue such decision letters when it made a decision. Unfortunately there is not an opportunity to suppress letters when a decision is made.

However it is clear that had the error not occurred around protection then fewer letters would have been issued. There is now a process in place around identifying protection which should remove/reduce the opportunity of this being missed.

1.6 Decision options:

The following decision options are available for consideration by Cabinet:

Option 1

Cabinet is requested to note the findings of the report (Appendix 1), its recommendations and actions taken to address the LGO's recommendations.

Option 1 is the recommended option.

1.7 Reasons for recommended option:

Not applicable

1.8 Appendices:

Appendix 1: The Ombudsman's final decision report, date 21 March 2016 Ref 15 014
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1.9 Contact officers:

Andrew Scott, Senior Client Manager Revenues, Benefits and Customer Services, tel. (0191) 643 7150

Yvette Monaghan, Customer, Member and Governor Services Manager, tel. (0191) 643 5361

Alison Campbell, Senior Business Partner, tel. (0191) 643 7038

1.10 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

(1) Appendix 1: The Ombudsman's final decision report, date 21 March 2016

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

The compensation of £200, has been paid from the Revenue & Benefit Service budget directly to the complainant as set out in the recommendations of the LGO.

There are no additional financial implications arising for the Council following the review of the procedures.

2.2 Legal

Where the LGO reports that injustice has been caused to a person aggrieved in consequence of maladministration, the report must be laid before the Authority who has a duty to consider the report and, within the period of three months beginning with the date on which the report was received, or such longer period as the LGO may agree in writing, to notify the LGO of the action which the Authority has taken or proposes to take.

2.3 Consultation/community engagement

There are no consultation/community engagement implications arising from this report.

2.4 Human rights

There are no human rights implications arising as a result of this report.

2.5 Equalities and diversity

There are no equalities and diversity implications arising as a result of this report.

2.6 Risk management

There are no risk management implications arising as a result of this report.

2.7 Crime and disorder

There are no crime and disorder implications arising as a result of this report.

2.8 Environment and sustainability

There are no environment and sustainability implications arising as a result of this report.

PART 3 - SIGN OFF

- Deputy Chief Executive X
- Head of Service X
- Mayor/Cabinet Member(s) X
- Chief Finance Officer X
- Monitoring Officer X
- Head of Corporate Strategy X