

Complaint reference:
15 014 758

Complaint against:
North Tyneside Metropolitan Borough Council

The Ombudsman's final decision

Summary: There is fault in the way the Council dealt with Mrs X's rent account and benefits claims following the death of her husband. During its complaints procedure the Council has apologised, considered changes to its procedures and offered to pay Mrs X £100 for the poor service she received. This amount is insufficient and the Council has agreed to pay Mrs X £200 to acknowledge the distress it caused her.

The complaint

1. Mrs X complained that following the death of her husband, the Council:
 - 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.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. She must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

How I considered this complaint

4. I have spoken to Mrs X and considered her complaint to the Ombudsman.
5. I have considered the Council's earlier responses to the complaint and the information it has provided me.
6. I have written to Mrs X and the Council with my draft decision and given them an opportunity to comment.

What I found

The law

Social sector size criteria or the “bedroom tax”

7. From April 2013 housing benefit is based on the number of people in the household and the size of the accommodation. This applies to all working-age tenants renting from a council or other registered social landlord.
8. If, according to the rules, you have more bedrooms than is necessary your housing benefit is reduced.
9. The rules allow one bedroom for each person or couple with a number of exceptions. Exceptions include:
 - couples who use a spare bedroom when recovering from frequent illnesses or operations
 - people who have recently suffered a bereavement.
10. If you classify as an exception your entitlement to housing benefit is protected for 52 weeks.

What happened

11. 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.
12. Shortly after Mr X’s death, Mrs X told the Department of Works and Pensions (DWP) and the Council about her change in circumstances.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. Mrs X received three decision notices on 7 April 2015. One of these contained the correct amount of benefit.

19. 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”*.

The Council’s complaints responses

20. Mrs X complained to the Council about the way it dealt with her rent account and benefit claims following her husband’s death.
21. 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.
22. In addition the Council has carried out the following actions:
- reminded staff of the correct procedures and actions to follow when customer accounts should be put on hold
 - changed its procedures so officers now have greater accountability when rent accounts are put on hold
 - reviewed its bereavement expertise and moved this to its support team which it feels is best placed to provide this type of support.
23. The Council also plans to:
- *“consider whether there is any opportunity to suppress multiple decision notices being issued and present the information in a different format in specific circumstances.”*
 - review its letters with *“customer service representatives who will provide a customer perspective on this.”*

My findings

24. 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.
25. 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.
26. 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.
27. 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.

28. 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.
29. 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.
30. 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.
31. 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.

Agreed actions

32. Due to Mrs X's particular circumstances I recommended the Council should pay her £200 as an acknowledgement of the distress caused by these faults. The Council has agreed to this and should make this payment within six weeks of this decision.

Final decision

33. There was fault leading to injustice. The Council accepts my recommendation and therefore I have ended my investigation.

Investigator's decision on behalf of the Ombudsman