

Leicester
City Council

WARDS AFFECTED
All Wards
(City Wide - Corporate Issue)

FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:

CABINET
COUNCIL

8 NOVEMBER 2004
25 NOVEMBER 2004

FINDINGS OF MALADMINISTRATION
BY THE LOCAL GOVERNMENT OMBUDSMAN
(OMBUDSMAN REPORT 03/13808)

Report of the Town Clerk and Director of Housing

1. PURPOSE OF REPORT

- 1.1 This report sets out the findings made by the Local Government Ombudsman (LGO) following the investigations into a complaint regarding a delay in dealing with a Housing Benefit application.
- 1.2 This report also sets out the remedies that the LGO recommends the Council to implement to provide just satisfaction to the complainants for the findings of maladministration leading to injustice and invites the Council to consider whether it accepts the recommendations.
- 1.3 In accordance with the LGO's practice the names used within this report are not the real names of the individuals concerned for reasons of confidentiality.

2. SUMMARY

- 2.1 Miss Paul complains that the Council failed to determine her claim for housing benefit, did not deal with a later request that the claim be backdated and delayed referring the subsequent appeal to the Appeals Tribunal Service. In addition, the Council did not take the opportunity, when the matter went to court because of arrears of rent, to investigate the complainant's circumstances and resolve the outstanding housing benefit claim issues properly. She also says that the Council failed to recognise the above factors when dealing with her claim for assistance as a homeless person. Finally, she says that as a result of the Council's maladministration she and her children were evicted from their home and refused rehousing.

2.2 Following investigation by the local Government Ombudsman they issued a finding of maladministration causing injustice

The Ombudsman recommends that:

- (a) that the Council make a payment of £3000 to Miss Paul
- (b) that the Council review its procedures to ensure that thorough checks are made to identify and address issues before possession proceedings and evictions go ahead
- (c) that the Council credit the court and enforcement costs cleared by Miss Paul (£221.75) to her rent account

2.3 The Council's response

The case dates back to 2002 and the Ombudsman found that Council had failed to undertake adequate checks on a backdate request and had failed to submit the same case to the Appeals Tribunal within a reasonable period of time. Although, the problems associated with the case occurred predominately during the Housing Benefit backlog, which contributed to the confusion and lack of action surrounding the case, the Housing Benefits Service accept that the process had failed the customer and, prior to the publication of the report in September 2004, had introduced new procedures to prevent similar problems occurring in the future.

3. RECOMMENDATIONS

3.1 The Cabinet is asked to:

- (a) recommend that the Council accepts the Ombudsman's recommendations, with the payment of £3000 released to Miss Paul.
- (b) review its procedures to ensure that thorough checks are made to identify and address all outstanding benefit issues before possession proceedings and evictions go ahead
- (c) credit the court and enforcement costs cleared by Miss Paul (£221.75) to her rent account

3.2 The Council is asked to accept the Cabinet's recommendation.

4. HEADLINE FINANCIAL AND LEGAL IMPLICATIONS

4.1 The payments recommended by the LGO will be met from the revenue budget of the Housing Department – Steve Browne, tel – 2526965

4.2 Under the provisions of the Local Government Act 1974 an investigation report by the LGO which finds maladministration leading to injustice must be placed before the authority within 3 months of receiving the report. The approval of payments under section 92 of the Local Government Act 2000 (payments for maladministration) is a Council function by virtue of paragraph 48 of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000
(Anthony Cross Assistant Head of Legal Services - tel 252 6352).

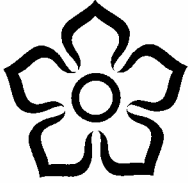
5. REPORT AUTHOR/OFFICER TO CONTACT:

Dave Pate, Service Director (Resources),
Housing Department
Tel: 252 6801

Johanne Robbins, Ombudsman Link Officer
Resources, Access & Diversity Department
Tel: 252 7115

DECISION STATUS

Key Decision	No
Reason	N/A
Appeared in Forward Plan	No
Executive or Council Decision	Cabinet



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SUPPORTING INFORMATION

1. REPORT

The Ombudsman findings are summarised as follows:

- 1.1 Payment of Housing Benefit to the complainant ceased on 31 July 2001 because the Council had not received a fully completed application with supporting documents.
- 1.2 The Council had experienced computer software problems and a backlog of work built up.
- 1.3 Seeking Possession was served by the Council on the ground of rent arrears and the complainant applied for backdated benefit on 21 March 2002. Housing Benefit was again suspended from 2 September 2002 after an abortive visit by a verification officer.
- 1.4 The complainant was evicted on 2 December 2002. She and her family had to move several times after the eviction.

- 1.5 The Council refused her claim for backdated benefit on 27 March 2003 and she appealed.
- 1.6 On 1 October 2003 the Council found the complainant to be homeless intentionally. This decision was upheld after a review.
- 1.7 Following guidance from the Department of Work and Pensions, the Council reviewed a number of benefit claims, including the complainant's and awarded Housing Benefit from 2 September 2002.
- 1.8 The Council sent the appeal papers to the Tribunal Service on 19 January 2004. On 28 April 2004 the Tribunal said that backdated benefit should be allowed from 30 July 2001.
- 1.9 The complainant then made another homelessness application and she has been rehoused by the Council.

2. THE OMBUDSMAN'S FINDINGS

2.1 The Ombudsman concluded that:

- The Council failed to deal with Miss Paul's March 2002 application for backdated Housing Benefit until March 2003. This appears to have been due to inadequate checking of the file and the error was not identified for 12 months. This was maladministration. She submitted an appeal on 15 April 2003 but the Council did not send the relevant papers to the Appeals Tribunal Service until 19 January 2002. They recognised the Council's difficulties but there was an excessive delay, which was also maladministration
- 2.1 Had the Council dealt with Miss Paul's application for backdated benefit and prepared her case for appeal more promptly, if her appeal would have been heard before her eviction and she would not have been evicted on 11 December 2002. Even if the appeal had not been heard by 11 December 2002, it should have been heard by the time the Council considered the complainant's homelessness application and it is likely that the Council would have accepted a rehousing duty in October 2003. Miss Paul would not have had to stay as long as she did in the Council's hostel. The Council's delays have caused significant injustice to Miss Paul and her children. They lost their home and some possessions, they did not have permanent accommodation between 11 December 2002 and May 2004, they had to stay in a hostel and bed and breakfast accommodation, the children's schooling has been affected and the family has suffered a good deal of distress and upset. Miss Paul has also incurred court and enforcement costs which have been cleared by Housing Benefit. Had she not incurred court enforcement costs, her rent arrears would have been cleared by Housing Benefit.

- 2.2 When the Council considered Miss Paul's first homeless application, officers concluded that she could have done more to resolve her rent arrears. Had she advised her housing officer of the lack of a decision on her application for backdated Housing Benefit, it is likely that he would have tried to resolve it. But the Council's decision was to refuse the application for backdated benefit and it is doubtful that an appeal against that decision or an appeal against the decision to suspend benefit in September 2002 would have been heard prior to the proposed date of her eviction. It is possible that the eviction would not have gone ahead in these circumstances but the implications of those unresolved Housing Benefit issues were more likely to be recognised by the Council than Miss Paul. She did in any case apply for the Court for the warrant of eviction to be suspended but her application was dismissed.
- 2.4 For the reasons given above the Ombudsman found that there had been maladministration by the Council which has caused injustice to the complainant
- 2.5 To Put things right the Ombudsman has recommended that the Council should:
- a) make a payment of £3,000 to Miss Paul
 - b) review its procedures to ensure that thorough checks are made to identify and address all outstanding Housing Benefit issues before possession proceedings
 - c) credit the court and enforcement costs cleared by Miss Paul (£221.75) to her rent account

3. COUNCIL'S RESPONSE

- 3.1 The case dates back to 2002 and the Ombudsman found that Council had failed to undertake adequate checks on a backdate request and had failed to submit the same case to the Appeals Tribunal within a reasonable period of time. Although, the problems associated with the case occurred predominately during the Housing Benefit backlog, which contributed to the confusion and lack of action surrounding the case, the Housing Benefits Service accept that the process had failed the customer and, prior to the publication of the report in September 2004, had introduced new procedures to prevent similar problems occurring in the future.

4. FINANCIAL, LEGAL AND OTHER IMPLICATIONS

4.1 Financial Implications

The payment will be made from the Housing Department's Budget – Steve Browne – Housing benefits Manager tel: 252 6965

4.2 Legal Implications

None

4.3 Other Implications

OTHER IMPLICATIONS

OTHER IMPLICATIONS	YES/NO	Paragraph References within report
Equal Opportunities	NO	
Policy	NO	
Sustainable and Environmental	NO	
Crime and Disorder	NO	
Human Rights Act	NO	

5. BACKGROUND PAPERS – LOCAL GOVERNMENT ACT 1972

5.1 Local Government Act 1974 (Section 30), press announcements have been made and copies of the report have been made for public inspection at the Customer Services Centre

5.2 A copy of the full report is appended to this report

6. CONSULTATIONS

6.1 This report has been produced in consultation with the Housing Department and the Legal Services Section in Resources, Access & Diversity Department

7. REPORT AUTHOR

Date Pate, Service Director (Resources),
Housing Department
Tel: 252 6801

Johanne Robbins, Ombudsman Link Officer
Resources, Access & Diversity Department
Tel: 252 7115