

31 May 2019

Complaint reference:
17 018 755

Complaint against:
Welwyn Hatfield Borough Council

The Ombudsman's final decision

Summary: The Council has acknowledged that it failed to identify the correct bin store when Ms B complained that her waste was not being collected. This meant that Ms B had to complain multiple time and waste accumulated. The Council has apologised to Ms B and put in place measures to make sure the waste is collected properly. The Council has agreed to pay Ms B £150 in recognition of the inconvenience and time and trouble it put her to, and meet with her to make sure that the problems are resolved.

The complaint

1. Ms B complains the Council has not taken effective action to make sure her refuse is collected regularly. The bins are in a communal bin store and the Council has not emptied these on more than ten occasions in the last year. This has meant that not only has waste built up, but that Ms B has had to contact the Council several times.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We 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, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
3. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

4. I have considered the information provided by the complainant. I have also considered the Council's response to my enquiries including the correspondence between the parties and the Council's file records. Both parties have had the opportunity to comment on a draft of this statement. I have taken into account the comments from both parties before issuing my final decision.

What I found

5. Ms B lives in a residential development. The refuse bins for her and neighbouring properties are kept in a single communal store. She found the refuse was not being collected. Ms B started to report this in December 2017. She did not have a refuse collection between 8 and 25 December. Ms B reported this to the Council on 28 December. The Council told its contractor to clear all the rubbish that had accumulated in the store. However, it took the contractor until 19 January to do this properly.
6. Ms B continued to experience problems. Each time, she reported this to the Council and it arranged for the bins to be collected at a later date.
7. The Council's contractor said its staff had too many collections on the same day, it rearranged the rounds and changed the collection day for Ms B. However, the problems continued with missed collections.
8. Ms B complained again and the Council said its contractor would closely monitor collections. It found there were no missed collections in the next four weeks.
9. However, further collections were missed and Ms B had to complain again, and when she reported this it was not always resolved as promised. The Council again said that changes to the collection team had been made but the problems persisted. In all, the Council's records show that Ms B reported that her waste had not been collected 14 times in just over a year.
10. Ms B complained to the Ombudsman. The Council investigated the problem again. It found that there had been confusion about the bin store Ms B was using and which the collection team failed to empty. The Council has explained that Ms B lives on a fairly new development and the collection teams were not familiar with these. Ms B and her neighbours use a bin store that is behind a locked gate requiring an access code. There is another bin store in front of the locked gate. When the Council corresponded with Ms B and when it asked the collection team to clear the accumulation of waste, the Council was mistakenly talking about the bin store in front of the locked gate. Ms B was referring to the bin store behind the gate.
11. The Council has now visited the site twice to accurately establish the location of the bin store and gate access code. The Council has made sure that its waste management contractor and its contact centre (via which Ms B had complained), is aware of the misunderstanding and that future problems are logged to the correct bin store.
12. The Council says that there has been no missed collection since and it will continue to monitor the situation. It has passed its apologies to Ms B and thanked her for her time and effort in reporting the issues to her. The Council's contractor will also:
 - Instruct its management team to check the collection weekly;
 - Ask collection teams at the end of each shift to confirm it had collected successfully from the correct bin store;
 - Ask the driver to document the time of collection; and
 - Add a map showing the correct bin store to the team's paperwork.
13. Ms B says that despite the Council's assurances collections are still missed and the problems are not resolved. The Council's records show that collections have been missed three times this year.

Was there fault by the Council causing an injustice to Ms B?

14. The Council has acknowledged that it was at fault because it did not establish which bin store had not been emptied. I recognise that the mistake was genuine and I can see how this unusual situation meant that the correct bin store was not identified for some time. However, this has caused a problem for Ms B, not only due to the uncollected waste, but also as she had to report it to the Council several times, when it could have been resolved after the first contact. This is likely to have caused Ms B inconvenience and put her to time and trouble.

Agreed action

15. The Council has offered to pay Ms B £50 in recognition of the time and trouble it put her to. It has agreed to increase this to £150 in keeping with the Ombudsman's guidance on settling complaints. The Council will pay this within one month of this decision.
16. The Council has identified what has gone wrong and put in place good measures to make sure that the waste is collected properly. It has also passed its thanks and apologies to Ms B. However, as collections have still been missed, the Council has agreed that within two months of this decision it will meet with Ms B to make sure that the problems are resolved.

Final decision

17. I have completed my investigation. There was fault by the Council causing an injustice to Ms B.

Investigator's decision on behalf of the Ombudsman

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The Ombudsman's final decision

Summary: The Council is at fault as it did not send Council Tax bills to Mr and Mrs X's forwarding address. As a result, Mr and Mrs X were wrongly charged court costs and contacted by enforcement agents. The Council has agreed to remedy Mr and Mrs X's distress and avoidable time and trouble by making a payment of £200 to them.

The complaint

1. Mrs X complains that the Council wrongly added recovery costs for Council Tax arrears it had not previously notified her about. The Council also failed to deal with her complaint. As a result, Mr and Mrs X were contacted by an enforcement agent and they were caused anxiety and avoidable time and trouble.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. We 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, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
3. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

4. I have:
 - Considered the complaint and the information provided by Mrs X;
 - Made enquiries of the Council and considered the information provided;
 - Invited Mrs X and the Council to comment on the draft decision.

What I found

5. Mr and Mrs X rented their property to tenants. Mr and Mrs X were liable for the Council Tax during periods in 2016 and 2018 when the property did not have tenants. The Council sent Council Tax bills to the property address. This was an error. The Council has said it should have reopened a closed account for Mr and Mrs X and sent the bill to the forwarding address held on that account.

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6. Mr and Mrs X were unaware of the bills so did not pay. The Council sent a reminder and summons to the property address. It then obtained a liability order and passed the account to enforcement agents to collect. It had added the summons and liability order costs to the bill at this point. The enforcement agent sent a number of letters to Mr and Mrs X requesting payment and warning it could remove goods.
 7. Mrs X sent an email to the Council notifying it she had only just received notice of the bill and asking it to remove the additional costs. Mrs X paid the outstanding Council Tax but did not pay the costs. She sent a number of emails asking the Council to remove the costs as she had only just become aware of the bill.
 8. The Council initially required Mrs X to provide Mr X's authorisation for her to deal with the account as it was in his name. The Council then advised Mrs X it had correctly added the costs to her account. The Council then issued a summons for the costs.
 9. Mrs X contacted her MP and the Ombudsman to complain the Council had wrongly added costs to her account.
 10. The Council acknowledged it wrongly sent the Council Tax bills to the property address instead of Mrs X's forwarding address. The Council also acknowledged it did not properly deal with her complaint. The Council apologised to Mrs X, removed the costs from her account and recalled the account from the enforcement agents.
 11. The Council has also reminded officers to reopen landlord accounts when a tenant vacates and not a new account to prevent a recurrence of the problems experienced by Mr and Mrs X.

My assessment

12. The Council has acknowledged it is at fault as it did not send the Council Tax bills to Mr and Mrs X's forwarding address so the bills were not properly served. The Council has apologised to Mr and Mrs X and removed the court and enforcement agent's costs. So the issue for me is whether this is a sufficient and proportionate remedy for Mr and Mrs X's injustice.
13. Mr and Mrs X were caused some distress by receiving the enforcement agent's notices over a number of weeks and by receiving another unnecessary summons. Mr and Mrs X were also put to avoidable time and trouble in having to contact the Council on a number of occasions to try to resolve the matter. The Council should make a payment to Mr and Mrs X to acknowledge this injustice in addition to the apology already made.

Agreed action

14. That the Council makes a payment of £200 to Mr and Mrs X to acknowledge the distress and avoidable time and trouble caused to them by the Council not sending Council Tax bills to their forwarding address and the unnecessary court costs and contact from the enforcement agents. This is in line with our guidance for remedying complaints. The Council should make this payment within one month of my final decision.

Final decision

15. The Council is at fault as it did not send Council Tax bills to Mr and Mrs X's forwarding address. As a result Mr and Mrs X were wrongly charged court costs

and contacted by enforcement agents. The Council has agreed to remedy Mr and Mrs X's distress and avoidable time and trouble as recommended so I have completed my investigation.

Investigator's decision on behalf of the Ombudsman

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The Ombudsman's final decision

Summary: Mr X complains that the Council has not awarded him priority on the housing register that accurately reflects the impact of his housing on his health. The Ombudsman will not investigate this complaint because it is unlikely that further investigation would result in a different outcome.

The complaint

1. Mr X complains that the Council has not awarded him priority on the housing register that accurately reflects the impact of his housing on his health. Mr X says that living in his current accommodation is detrimental to his mental and physical health.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. We must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe it is unlikely further investigation will lead to a different outcome. (*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

3. I considered the information in the complaint and the documents the Council provided.
4. I have written to Mr X with my draft decision and considered his comments.

What I found

5. Mr X applied to join the Council's housing register in May 2019. In his application, he said that the reason he needed to move was the impact of his current accommodation on his health.
6. The Council asked Mr X to complete a medical information form, which he did in June 2019. Mr X also provided information about his physical and mental health conditions.
7. The Council awards priority on the housing register in Bands, where Band A is the highest priority, and allocates available properties to those with the highest priority

band who have been waiting the longest. The Council assesses each application in line with its Housing Allocations policy to decide what priority band to award.

8. The Council asked an Independent Medical Advisor (IMA) to assess Mr X's application and awarded priority band D considering the IMA's recommendation.
9. In September 2019, Mr X asked the Council to look again at the decision. He pointed out that he needs a ground floor property and priority for ground floor properties is reserved for those in Bands A-C.
10. The Council discussed the application with the IMA and agreed to increase Mr X's priority to Band C to reflect the degenerative nature of one of his health conditions and his need for a ground floor property. The Council backdated Mr X's new banding to the date it originally awarded Band D.
11. The Council agreed with Mr X that it had not awarded him a priority banding that accurately reflected his housing needs and the impact of his housing on his health conditions. The Council remedied this by awarding Mr X a higher priority band and backdating it to the date of the original assessment.
12. There is insufficient evidence that Mr X lost out on a realistic prospect of being offered a property in the three months it took the Council to remedy its error. It is unlikely that further investigation by the Ombudsman would result in a different outcome.

Final decision

13. The Ombudsman will not investigate this complaint because it is unlikely that further investigation would result in a different outcome.

Investigator's decision on behalf of the Ombudsman