

**Complaint reference:**  
17 010 125

**Complaint against:**  
East Devon District Council

## **The Ombudsman's final decision**

Summary: The Ombudsman will not investigate this complaint about a housing benefit overpayment. This is because the Council has provided a proportionate response by waiving repayment and offering to cover the complainant's legal fees. It is unlikely an investigation would lead to a different outcome.

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## **The complaint**

1. The complainant, whom I refer to as Mr X, complains that a housing benefit error made him homeless.

## **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 an investigation if we believe:
  - the injustice is not significant enough to justify our involvement, or
  - the Council has already provided a fair response; or
  - 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 read the complaint and the Council's response. I considered comments Mr X made in response to a draft of this decision.

## **What I found**

### **Housing benefit overpayments**

4. If a council pays too much housing benefit to someone it will usually ask them to repay it. The law says an overpayment is recoverable unless it was caused by an official error and it was not reasonable to expect the person to realise they were receiving too much benefit. If someone disagrees with a decision that they must repay an overpayment they can appeal to the tribunal.

### **What happened**

5. The Council asked Mr X to repay a housing benefit overpayment of about £400. Mr X challenged the decision. The Council reviewed the decision and decided the

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overpayment had been caused by an error by the Council. The Council told Mr X he did not have to repay the £400.

6. Mr X complained. He said the Council's error had caused a period of homelessness. In response, the Council repeated that he did not have to repay the £400. The Council apologised for the stress and inconvenience. The Council offered to pay the legal costs he incurred when he consulted a solicitor. The Council said Mr X had received more benefit than he was entitled to so it did not understand how the error could have caused homelessness. The Council invited Mr X to contact the housing team for advice if he was facing homelessness.
7. Mr X is dissatisfied with the Council's response. His tenancy is due to end this month and he thinks the Council should contribute to his estate agent fees so he can find a new home. Mr X also wants to know how and why the overpayment occurred.

### **Assessment**

8. I will not start an investigation because the Council has already provided a proportionate response and there is not enough remaining injustice to require an investigation.
9. The Council followed the correct process by giving Mr X the opportunity to appeal against the overpayment. It then reconsidered its decision and decided Mr X did not have to repay the £400. It apologised for the stress and offered to reimburse his legal fees. There is nothing more we would expect the Council to do and an investigation would not lead to a different outcome.
10. Mr X says the error caused homelessness. It is unfortunate if Mr X did have a period of homelessness. However, he has not provided any evidence or explained why receiving too much benefit would have caused him to lose his home.
11. Mr X wants to know why the overpayment arose. I appreciate Mr X may want further information but there is no reason to start an investigation because the matter has been resolved. The role of the Ombudsman is to remedy injustice. In this case that has happened and no further intervention is required.
12. Mr X says his tenancy is due to end this month. The Council has invited him to get housing advice. There is no reason to ask the Council to help him pay his estate agent fees.

### **Final decision**

13. I will not investigate this complaint because the Council has provided a fair response and it is unlikely an investigation would lead to a different outcome.

### **Investigator's decision on behalf of the Ombudsman**