

The Ombudsman's final decision

Summary: We will not investigate this complaint about the Council not paying housing benefit. This is mainly because it is reasonable to expect Ms X to have appealed to the tribunal.

The complaint

1. Ms X complains the Council is refusing to pay her housing benefit, despite the ruling from the First Tier Tribunal (the tribunal) that she is entitled to it. Ms X says the ending of her housing benefit has led to the Council threatening her with eviction due to rent arrears.
2. Ms X also complains the Council is pressuring her, and potentially other vulnerable residents, to knowingly provide the Department of Work and Pensions (DWP) with false information.
3. Ms X wants the Council to pay her housing benefit.

The Ombudsman's role and powers

4. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
5. The law says we cannot normally investigate a complaint when someone has a right of appeal, reference or review to a tribunal about the same matter. However, we may decide to investigate if we consider it would be unreasonable to expect the person to use this right. (Local Government Act 1974, section 26(6)(a), as amended)
6. In R (on application of Milburn) v Local Govt and Social Care Ombudsman & Anr [2023] EWCA Civ 207 the Court said s26(6)(a) of the Local Government Act prevents us from investigating a matter which forms the "main subject or substance" of an appeal to the Tribunal and also "those ancillary matters that may fall to be decided by the Tribunal... such as procedural failings or conduct which is said to be in breach of the [Tribunal] Rules, practice directions or directions or that is said to be unreasonable...".
7. The Social Entitlement Chamber (also known as the Social Security Appeal Tribunal) is a tribunal that considers housing benefit appeals. (The Social Entitlement Chamber of the First Tier Tribunal)
8. We cannot investigate complaints about the provision or management of social housing by a council acting as a registered social housing provider. (Local Government Act 1974, paragraph 5A schedule 5, as amended)

How I considered this complaint

9. I considered information provided by Ms X.
10. I considered the Ombudsman's Assessment Code.

My assessment

11. In 2021, the tribunal ruled that Ms X's housing was housing whose occupants could receive housing benefit (if they otherwise qualified). The Council says it never received that decision and, in 2025, stopped paying housing benefit to Ms X.
12. Ms X has told the Council she intends to take tribunal action to have the tribunal enforce the 2021 ruling. This is the appropriate course of action for Ms X to have the ruling enforced, and it is reasonable to expect Ms X to take this action. The ombudsman cannot enforce tribunal decisions. So, we will not investigate this part of the complaint.
13. Ms X had the right to appeal to the tribunal about the Council's 2025 decision to end her housing benefit. I note Ms X has health problems and disabilities. Ms X could ask the tribunal to make disability-related adjustments to enable her to appeal. Overall, it is reasonable to expect Ms X to have used her appeal right.
14. We cannot investigate the Council's actions relating to Ms X's rent arrears. This concerns the Council's management of its social housing in its capacity as a registered provider of social housing, so the restriction in paragraph 8 applies.
15. The Council says its advice to Ms X about giving information to the DWP was based on the Council's understanding of her situation. The Council also says it advised Ms X to seek independent advice. I do not consider this point significant enough in itself to warrant investigation when we are not investigating the more substantive parts of the complaint about Ms X's housing benefit.

Final decision

16. We will not investigate Ms X's complaint. It is reasonable for her to take tribunal action on the housing benefit points. We cannot investigate complaints about the management of tenancies by social housing landlords. It would be disproportionate to investigate in isolation the point about giving information to the DWP.

Investigator's decision on behalf of the Ombudsman