

10 April 2018

**Complaint reference:**  
17019124

**Complaint against:**  
London Borough of Havering

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

Summary: we will not investigate this complaint about the action the Council is taking to recover outstanding council tax dating back to 2004-2007. This is because he may explain to the Magistrates' Court why he believes the Council cannot recover the debt.

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## **The complaint**

1. The complainant, who I have called Mr X, complained that the London Borough of Havering is trying to recover outstanding council tax dating back to 2004-2007. He said the law prevents the Council from recovering debts that are more than six years old.

## **The Ombudsman's role and powers**

2. We have the power to start or discontinue an investigation into a complaint within our jurisdiction. We may decide not to start or continue with an investigation if we think the issues could reasonably be, or have been, raised within a court of law.  
*(Local Government Act 1974, sections 24A(6) and 34B(8), as amended)*

## **How I considered this complaint**

3. I have considered the information provided by Mr X. I have considered Mr X's response to a draft of this decision.

## **What I found**

### **Background**

4. Once the Council has a liability order for non-payment of council tax, and attempts to recover the debt have been unsuccessful, it can summon the taxpayer back to the Magistrates' Court. The taxpayer must attend court for the case to proceed. If he does not attend the Court can issue an arrest warrant.

### **Key facts**

5. Mr X used to live in the Council's area. He has unpaid council tax dating back to 2004-2007.
6. In 2016 the Council gained a court order requiring Mr X to pay £40 per month towards the outstanding council tax. Mr X said it did this just as his wife was taken seriously ill. The Council said Mr X did not make the payments of £40 per month and summoned him back to the Magistrates' Court early in 2018. Mr X did not attend the hearing and the Court issued an arrest warrant.

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7. Mr X believes the Council cannot recover outstanding council tax from 2004-2007. He said the Limitation Act 1980 prevents the Council from recovering debts more than six years old. And he said the Council did not take account of his wife's serious illness or take account of Government guidance regarding vulnerable people.
  8. The Council said it gained liability orders in 2005, 2006 and 2007. It said because it gained liability orders within six years of the debt arising there was no time limit on recovering the debt.

### **Analysis**

9. Mr X believes the Council cannot recover the outstanding council tax from 2004-2007 because the debt is too old. He also believes the Council should have followed Government guidance about recovering the debt. The Council says it gained liability orders within six years and so the debt is recoverable.
10. It is not our role to decide whether the Limitation Act 1980 applies in Mr X's case. Nor is it our role to say whether the outstanding council tax may be recovered by the Council. That would be a matter for the Magistrates' Court to decide.
11. The Magistrates' Court has issued an arrest warrant and Mr X will have to attend court. When he does so, it is open to him to put forward his reasons for believing the Council cannot recover the council tax and why he thinks the Council failed to follow Government guidance. The Magistrates' Court may then decide whether the 1980 Act applies to Mr X's case and whether the council tax is recoverable.
12. So for these reasons, we will not investigate this complaint.

### **Final decision**

13. We will not investigate this complaint. This is because the Magistrates' Court may decide whether the outstanding council tax is recoverable.

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