

The Ombudsman's final decision

Summary: We cannot investigate Mr B's complaint about the Council's consideration of his compensation claim. This is because Mr B took the Council to court.

The complaint

1. The complainant, who I will refer to as Mr B, complains about the Council's handling of his compensation claim after his car was damaged. Mr B says the Council failed to give proper consideration to the merits of his claim or consider settlement negotiations. Mr B says this meant he was forced to start court proceedings which eventually resulted in the Council offering to settle his claim in full and pay his court costs. Mr B would like the Council to pay him compensation - in line with its own legal fees - for the avoidable time and inconvenience he has been put through.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate a complaint if someone has started court action about the matter. (*Local Government Act 1974, section 26(6)(c), as amended*)
4. We cannot investigate a complaint about the start of court action or what happened in court. (*Local Government Act 1974, Schedule 5/5A, paragraph 1/3, as amended*)

How I considered this complaint

5. I considered information provided by Mr B.
6. I considered the Ombudsman's Assessment Code.

My assessment

7. Mr B complains about the Council's initial consideration of his compensation claim. Mr B took the Council to court after the Council refused to settle his compensation claim. The start of court action by Mr B resulted in the Council paying his claim in full in addition to his court costs. So, this court action provided a remedy for Mr B. This means we cannot investigate this part of Mr B's complaint. If Mr B was not satisfied with the Council's offer, he could have refused it and asked the court to decide the matter.

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8. We cannot investigate the Council's actions after Mr B started court proceedings. This is because we cannot investigate complaints about the conduct of court proceedings. This restriction applied once Mr B put in his claim to court.

Final decision

9. For the above reasons, we cannot investigate Mr B's complaint.

Investigator's decision on behalf of the Ombudsman