

15 November 2019

Complaint reference:
19 006 300

Complaint against:
East Devon District Council

The Ombudsman's final decision

Summary: Mr X complains the Council has refused to consider his complaint and that staff have been obstructive and sent offensive letters. The Ombudsman will not investigate this complaint. This is because it is unlikely we will find fault in the Council's actions. And we do not consider that Mr X has suffered a significant personal injustice which warrants our involvement.

The complaint

1. Mr X complains the Council refuses to consider his complaint about a parish councillor. And that staff have been obstructive and sent offensive letters. He wants the parish councillor and council staff 'sorted out'.

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 we would find fault
 - the fault has not caused injustice to the person who complained
 - the injustice is not significant enough to justify our involvement
 - it is unlikely we could add to any previous investigation by the Council
 - it is unlikely further investigation will lead to a different outcome
 - we cannot achieve the outcome someone wants

(Local Government Act 1974, section 24A(6), as amended)

How I considered this complaint

3. I considered the information provided by Mr X and the Council. I also listened to Mr X's concerns during a telephone call.
4. Mr X had the opportunity to comment on the draft version of this decision.

What I found

5. Mr X has concerns about the parish council's spending. He says he has raised these concerns with the chairman of the parish council for some years but has been ignored. He says he decided to make a complaint about the chairman.
6. The district council's arrangements for making a complaint about a councillor states the complaint must be made in writing using a specific 'councillor complaint form'. The complainant must confirm what the councillor has done which they believe breaches the council's code of conduct.
7. Mr X contacted the Council. After corresponding with an officer, the Council's Monitoring Officer wrote to Mr X asking him to clarify his concerns. He asked him to present the facts of his complaint in a way which identifies which part of the code of conduct the councillor has breached. The officer also asked Mr X to refrain from making unnecessary statements not relevant to the complaint.
8. Mr X found this letter offensive and complained to the Ombudsman. The matter was referred back to the Council for a final response.
9. The council's Chief Executive responded to Mr X. He apologised for staff sending emails after Mr X had requested correspondence in hard copy. He also apologised if Mr X found the officer's letter offensive, saying it was not intended to be so. This final response also stated the Council had found it difficult to extract the main points from his correspondence and it does not have enough information to progress his complaint against the parish councillor.

Assessment

10. The Ombudsman may not criticise the Council unless he is satisfied there is administrative fault by the Council which has caused the complainant injustice. Unless fault and injustice are present, he may not pursue the matter. Where the injustice is not significant the Ombudsman will normally exercise his discretion not to pursue the matter. He is publicly funded and must ensure proper use of his resources.
11. In this case the Council has followed its procedure for dealing with complaints about councillors. It has asked Mr X to provide written information identifying what the individual councillor has done wrong and how this has breached the code of conduct. Mr X refuses to do so, therefore the Council cannot progress his complaint. I have not seen any evidence of fault here.
12. Turning to Mr X's complaint about the way the Council has dealt with his concerns, we will not look only at the way a complaint has been considered. We consider both the handling of the complaint and the substance of the original complaint. We do not consider there can be sufficient injustice to the complainant as a result of any failings in the complaints process alone to warrant our involvement.

Final decision

13. I will not investigate this complaint as it is unlikely we will find fault in the Council's actions. And we do not consider Mr X has suffered a significant personal injustice which warrants and investigation by the Ombudsman.

Investigator's decision on behalf of the Ombudsman