

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

Summary: We will not investigate Mr X's complaint about the Council's refusal to investigate the behaviour of a Parish Councillor. There is not enough evidence of fault to justify an investigation. We cannot investigate the actions of Parish Councils.

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## **The complaint**

1. Mr X complained the Council failed to investigate his complaint against Parish Councillors. He also claimed the Council failed to monitor and act against a failing Parish Council over a number of years. He stated the actions of Parish Councillors have caused him and his family extreme distress. He wanted the Council to investigate his complaints against the Parish councillors and review the Parish Council's adherence to the law.

## **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 complaints about actions which are not the administrative function of a council. (Local Government Act 1974, section 26(1) as amended).
4. We investigate complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service, but must use public money carefully. We do not start or continue an investigation if we decide there is not enough evidence of fault to justify investigating. (Local Government Act 1974, section 24A(6), as amended, section 34(B))

## **How I considered this complaint**

5. I considered information provided by Mr X and the Council.
6. I considered the Ombudsman's Assessment Code.

## **My assessment**

7. Local Authorities have a duty to designate a Monitoring Officer to ensure the lawfulness and fairness of authority decision making. The Monitoring Officer must ensure the authority, its officers and members maintain the highest standards of

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conduct. Each council has different rules for dealing with complaints about code of conduct breaches.

8. Mr X complained to the Council did not investigate his complaint about the actions of a Parish Councillor, or the actions of a Parish Council.
9. In its complaint response, the Council told Mr X that his complaint could not be considered under its code of conduct complaints process. It explained this was because his complaint related to actions of the Parish Council, concerned matters that took place more than six months previously, or had already been considered under a separate code of conduct complaint. The Council explained its Monitoring Officer did not have power to investigate the matter and recommended that Mr X raise his concerns with the Parish Council, the Information Commissioners Office, and the Parish Council's external auditors.
10. The Ombudsman does not provide an appeal against the Monitoring Officer's decisions. Where a Monitoring Officer has made a decision in line with the correct procedure, taking account of the relevant evidence, the Ombudsman will generally not criticise the decision, even if the complainant does not agree with it.
11. In this case, I am satisfied the Council considered Mr X's complaint in line with its rules for dealing with code of conduct complaints, before deciding to take no further action. It appropriately considered his concerns and explained the reasons for its decision to take no further action to him. There is not enough evidence of fault to justify an investigation.
12. Additionally, the law states we cannot investigate complaints about the actions of Parish Councils where they are not acting on behalf of a principal local authority in respect of one of its functions. Therefore, we cannot investigate the parts of the complaint relating to the Parish Council.

### **Final decision**

13. We will not investigate Mr X's complaint because there is not enough evidence of fault to justify an investigation. We cannot investigate the actions of Parish Councils.

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