

The Ombudsman's final decision

Summary: The Ombudsman will not investigate this complaint about payment dates for council tax. This is because there is insufficient evidence of fault by the Council and because parts of the complaint have been subject to legal action.

The complaint

1. The complainant, whom I refer to as Mr X, complains that the Council will not let him pay his council tax on an alternative date.

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 an investigation if we believe it is unlikely we would find fault. (*Local Government Act 1974, section 24A(6), as amended*)
3. 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

4. I read the complaint and the Council's responses. I considered a letter sent to Mr X from the Ministry of Housing, Communities and Local Government. I spoke to Mr X and considered comments he made in response to a draft of this decision.

What I found

Council tax

5. The Council requires people to pay their council tax by the first day of each month. If they pay by direct debit the Council offers payment dates on the first, fifteenth or twenty first of the month.
6. The law says people must pay their council tax before the instalment date stated on the bill. If people pay late on more than two occasions they lose the right to pay by instalments. The Council can then demand that they pay the full amount which is due for the rest of the year. If they do not pay the Council can serve a summons and ask the magistrates for a liability order. A liability order is a court order confirming the person must pay the council tax and court costs.

What happened

7. Mr X gets paid on the sixth day of the month and says a payment date of the first of the month is not suitable. He asked the Council for a different payment date. The Council offered two later dates but said he would have to pay by direct debit. The Council explained that it has a statutory payment scheme and it was not possible to offer multiple payment dates. Mr X does not want to pay by direct debit because he will incur bank charges if there are insufficient funds to cover the council tax when the direct debit is taken.
8. The Council has taken Mr X to court for late payment and obtained a liability order. Mr X applied to the magistrates' court to have the liability order set aside. The court did not consider the case because Mr X did not complete the application. Mr X made an application to the County Court. The court struck out the case because Mr X failed to attend the hearing.
9. Mr X says the Council is acting in defiance of the Ministry of Housing, Communities and Local Government. He has referred to a letter which says councils can require payment by a particular day but it should be open to negotiating an alternative date. Mr X says the Council is discriminating against low paid and part time workers by requiring a single payment date.

Assessment

10. I will not start an investigation because there is insufficient evidence of fault by the Council. The statutory payment date is the first of the month but the Council offers two later dates if people pay by direct debit. The Council relies on council tax to pay for services and to meet financial obligations. It needs a commitment to pay, by any method by the first of the month, or have later dates secured by direct debit. To allow a range of payment dates, by a non-automated method such as direct debit, would place too high an administrative burden on councils. In addition, the letter is silent on the requirement for direct debit but simply says the Council should be flexible. The Council offers a range of payment methods and different dates. The letter is not a regulation or a policy statement.
11. The Council's response to Mr X's complaint is consistent with the policy so there is no reason to start an investigation. The Ombudsman does not act as an appeal body. He cannot intervene simply because a council makes a decision that someone disagrees with and he does not tell councils how to operate the council tax scheme.
12. Mr X says the Council had no right to take him to court because he was paying by the fifteenth of the month. I cannot investigate this part of the complaint because the court issued the liability order and Mr X started legal action to challenge it. The law prevents the Ombudsman from investigating any issue that has formed part of legal proceedings.

Final decision

13. I will not start an investigation because there is insufficient evidence of fault by the Council and because part of the complaint has been subject to legal proceedings.

Investigator's decision on behalf of the Ombudsman