

**Complaint reference:**  
14 018 821

**Complaint against:**  
Bristol City Council

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

Summary: The Ombudsman will not investigate this complaint about the Council's failure to take action regarding an alleged breach of the Councillors' Code of Conduct. This is because there is no sign of fault by the Council in the way it considered matters.

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## **The complaint**

1. The complainant, who I shall call Mr X, complained about a decision by the Council's Monitoring Officer not to take action regarding his complaint about a Councillor's comments. In particular, Mr X said the Councillor made a libellous remark about him on his Twitter page which breached the Councillors' Code of Conduct.

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

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word 'fault' to refer to these. The Ombudsman provides a free service, but must use public money carefully. She may decide not to start an investigation if, for example, she believes it is unlikely she would find fault. (*Local Government Act 1974, section 24A(6)*)
3. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)

## **How I considered this complaint**

4. I considered the information Mr X provided with his complaint, and his comments in response to a draft version of my decision. I also took account of information the Council supplied about its response to Mr X's complaint.

## **What I found**

5. Mr X is active in local politics. During the 2014 local election campaign a Councillor posted a comment on his Twitter site about views he said Mr X had expressed some years previously. But Mr X said the Councillor had unfairly misrepresented his views in an offensive way. After the Councillor refused to remove the Twitter posting and apologise, Mr X complained to the Council's Monitoring Officer about his conduct.

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6. The Council has a Code of Conduct which applies to all elected councillors while they are carrying out their official duties. Complaints about councillors' conduct are considered by the Council's Monitoring Officer, who decides if the matter should be referred to the Council's Audit Committee for further investigation.
  7. The Monitoring Officer decided Mr X's complaint did not fall within the Code of Conduct because the Councillor was not acting in his role as a Council member when he made his Twitter posting. In particular, the Monitoring Officer said the Councillor was expressing his own political views, and was not representing the Council or conducting its business at the time.
  8. Mr X considered the Monitoring Officer's decision was wrong, and the Councillor should be made to remove his comment and apologise at a full Council meeting. But the Ombudsman has no reason to pursue this matter. In particular, it is not the Ombudsman's role to provide a further appeal about a Monitoring Officer's decision concerning a councillor's conduct. The Ombudsman can only question the merits of a decision if there is evidence of fault in the way it was reached.
  9. But there is no sign of fault by the Council in Mr X's case. In particular the Monitoring Officer evidently took account of relevant information, policy and practice in deciding matters. In addition he gave Mr X a reasoned explanation for his decision in terms of the Council's procedure for dealing with complaints against councillors. In the circumstances, the Ombudsman may not question the merits of that decision.

### **Final decision**

10. The Ombudsman will not investigate Mr X's complaint that the Council failed to take action in response to his complaint about a Councillor's conduct. This is because there is no sign of fault in the Council's decision which warrants the Ombudsman's involvement.

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

**Complaint reference:**  
14 017 082

**Complaint against:**  
Bristol City Council

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

Summary: The Ombudsman will not investigate Mr X's complaint that the Council has not investigated the actions of a councillor. This is because the Ombudsman has not seen any evidence of fault in how the Council decided not to investigate Mr X's complaint so she cannot criticise the decision made.

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## **The complaint**

1. The complainant, whom I shall call Mr X, says the Council should investigate his complaint about the actions of his local councillor, who I shall call Councillor A.

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

2. The Ombudsman investigates complaints of injustice caused by maladministration and service failure. I have used the word fault to refer to these. The Ombudsman cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. She must consider whether there was fault in the way the decision was reached. (*Local Government Act 1974, section 34(3)*)

## **How I considered this complaint**

3. I have considered the information Mr X provided when he spoke to our Intake Team to make the complaint and the Council's replies to their complaint to it. I have also discussed the complaint with Mr X. Mr X has had the opportunity to comment on a draft of my final view.

## **What I found**

### **What happened**

4. In 2011 Mr X made a planning application to build a separate property behind his home. Councillor A became aware of some local opposition and wrote to the Planning Department supporting the objectors and adding his own comments. He also asked the decision be made by the Planning Committee. Mr X withdrew the application. Councillor A sent copies of his letter to Mr X's neighbours, but did not send Mr X a copy
5. In 2012 Mr X made another application which Councillor A also opposed. The Council refused the application. Again Councillor A sent copies of the objections to Mr X's neighbours.

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6. In 2014 Mr X made a third application for a smaller property. Councillor A again wrote to the Council objecting to the application. As before Councillor A sent copies of his letter to Mr X's neighbours, but did not send Mr X a copy. The Council's Planning Committee granted Mr X planning permission.
  7. Mr X was very upset that Councillor A had opposed the applications and had written to his neighbours. He complained to the Council about the actions of Councillor A, saying he had been underhand and had ostracised Mr X and his partner from the local community. Mr X said Councillor A had made comments that were not planning related and discriminated against him and his partner because of their sexuality.
  8. The Council decided not to investigate Mr X's complaint as councillors had the right to object to planning applications and there was no evidence Mr X's sexuality had influenced Councillor A's actions.

### **My comments**

9. When considering how a council has dealt with a complaint about an elected member my role is not to comment on the actions of the councillor, but on the way the Council made its decision about the complaint. If there is no fault in the way the council made the decision I cannot criticise it.
10. I have seen two of the letters that Councillor A sent to the Council. His objections to Mr X's development are purely on planning grounds and there is no mention of Mr X's sexuality. It may have been common courtesy for Councillor A to have spoken to Mr X, but there is no requirement for anyone objecting to an application to speak to the applicant. Objections to planning applications are public documents and Mr X should have been made aware of them by the Council.
11. I cannot say that the Council did not have good reasons not to investigate Mr X's complaint or there was fault with how it decided not to.

### **Final decision**

12. I will not investigate Mr X's complaint the Council has not investigated his complaint about the actions of Councillor A as I have not seen any evidence of fault in how the Council made this decision.

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