

Complaint reference:
16 005 937

Complaint against:
Bolsover District Council

The Ombudsman's final decision

Summary: The Council failed to respond to emails from the complainant which resulted in it issuing a summons for non payment of council tax. The Council also failed to tell the complainant about his right of appeal against its decision to not give him a single person's discount. The Ombudsman has recommended that the Council take action to remedy the complainant's injustice.

The complaint

1. Mr B complains that there were failings in the way the Council administered his council tax. In particular that it took recovery action after sending correspondence to the wrong address and failed to give him a single person's discount.

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. She must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
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)*)
4. The law says the Ombudsman cannot normally investigate a complaint when someone can appeal to a tribunal. However, she may decide to investigate if she considers it would be unreasonable to expect the person to appeal. (*Local Government Act 1974, section 26(6)(a)*)
5. The Valuation Tribunal deals with appeals against decisions on council tax liability and council tax support or reduction.

How I considered this complaint

6. I have:
 - considered the complaint and the documents provided by the complainant;
 - considered the comments and documents the Council has provided; and
 - given the Council and the complainant the opportunity to comment on my draft decision.

What I found

7. Mr B bought a house in July 2014 which needed major works. The Council granted a council tax discount of 100% to Mr B for 12 months, until July 2015.
8. The Council then sent Mr B an adjustment notice itemising the payments due for the rest of the council tax year. It did not include any discounts.
9. When Mr B failed to make the first payment, the Council sent Mr B a reminder notice. It sent the notice to Mr B's business address because he was not living in the house and had not provided an alternative residential address.
10. When Mr B failed to respond to the reminder notice, the Council cancelled Mr B's right to pay by instalments and the full balance for the year became due.
11. Mr B then told the Council that he had moved into the house on 24 August 2015 and was entitled to a sole occupier discount. The Council carried out two home visits and found the property to be empty. It emailed Mr B in September and October 2015 asking where he was living and explaining that it could not amend its records unless he could prove that he was living in the house.
12. The Council then sent a summons for non payment of council tax to his business address. A liability order was granted on 25 November 2015.
13. Mr B says that he sent utility bills to the Council on 25 November 2015 to show that he was living in the property. The Council has told Mr B that it has not received any evidence from him.
14. Mr B considers the Council should have written to him at the house as he told the Council he was living there on 24 August 2015. He says that if it had done so, he would have paid the council tax due and would not have incurred court costs of £55.
15. I do not consider Mr B incurred these costs as a result of any fault by the Council. The Council visited the house to check that he was living there as it is entitled to do. When it found the property to be empty, it emailed Mr B asking where he was living, or for proof that he was living at the house. As Mr B did not provide any evidence, the Council decided to send the summons to the only other address it had for him – his business address. I have found no evidence of fault in the way the Council reached this decision.
16. On 30 November 2015, Mr B emailed the Council and said that he had moved out of the property that day. He asked the Council to send any correspondence to the house and said that he may not receive documents sent to any other address. The Council then asked Mr B where he was living. Mr B did not answer and asked again for correspondence to be sent to the empty house.
17. The Council issued the bill for the new council tax year 2016-17 to Mr B's business address. Mr B emailed the Council on 4 April 2016 and 18 April 2016 and said that he had not received a bill for the year 2016-17. The Council did not respond to his emails. This was fault.
18. On 29 April 2016, the Council sent a summons to Mr B's business address. Mr B contacted the Council on 3 May 2016 and was told that he needed to provide evidence to show that he was living in the property. On 22 June 2016 Mr B provided evidence to show he had been living in the house since 28 March 2016. A liability order had already been granted on 26 May 2016.
19. I consider the summons was issued as a direct result of the Council's failure to respond to the emails Mr B sent in April 2016.

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20. The Council accepts that Mr B has been living in the house since 28 March 2016. It has told Mr B that it will not grant a single person's discount for the period 24 August 2015 to 30 November 2015 without proof that he was living in the house during that time.
 21. Mr B can appeal to the Valuation Tribunal if he disagrees with the Council's decision that he is not entitled to a single person's discount. The Council should have told Mr B about his right of appeal. It did not do so; this was fault.

Agreed action

22. Following my recommendations, the Council has agreed to:
 - remove the court costs of £55 from the outstanding balance for the council tax year 2016-17;
 - write to Mr B explaining its decision regarding the single person's discount for the period 24 August 2015 to 30 November 2015, and include details of how Mr B can appeal its decision; and
 - pay Mr B £45 to recognise the time and trouble he has been put to pursuing the matter.
23. The Council should take these actions within four weeks.

Final decision

24. I have completed my investigation and uphold Mr B's complaint. There was fault by the Council which caused Mr B injustice. The action the Council has agreed to take is sufficient to remedy his injustice.

Investigator's decision on behalf of the Ombudsman