

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

Summary: Mr X complained about the Council's incorrect advice concerning his application and appeal for an empty property exemption. The Ombudsman should not investigate this complaint. This is because there is insufficient evidence of injustice caused to Mr X which would warrant an investigation.

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## **The complaint**

1. The complainant, whom I shall call Mr X, complains that he was given incorrect advice from the Council about applying for an empty property exemption. He says he was then given further incorrect advice about making an appeal against its rejection of his application.

## **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, or
  - the fault has not caused injustice to the person who complained, or
  - the injustice is not significant enough to justify our involvement.

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

3. The law says we cannot normally investigate a complaint when someone can appeal to a tribunal. However, we may decide to investigate if we consider it would be unreasonable to expect the person to appeal. *(Local Government Act 1974, section 26(6)(a), as amended)*

## **How I considered this complaint**

4. I have considered all the information which Mr X submitted with his complaint. I have also considered the Council's response.

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## What I found

5. Mr X applied to the Council for an exemption from council tax for a building which had undergone a major renovation. The Council granted a 30-day exemption for empty rate after it was completed and issued a council tax bill for the full amount afterwards. The bill contained outdated information about exemptions on the back and Mr X applied for one of these exemptions.
6. Mr X applied for an exemption under Class A which related to buildings undergoing major repair works. The Council failed to inform him at the time that this Class had been replaced by Class D following a change in legislation in 2013. Both Classes related to a 12-month exemption, but Class D was for 50% of the charge rather than 100% formerly.
7. The Council rejected his application because it says he did not challenge the date of when it issued the completion certificate. It advised him to appeal to the Valuation Tribunal which considers appeals against exemption and discount decisions. Mr X did so but was still unaware that Class A had been abolished and he should have appealed against a Class D decision.
8. The Tribunal considered his appeal as being for a Class D exemption because Class A no longer existed. The decision was reviewed and the Vice President concluded that there had been a procedural error because Mr X had requested an appeal against Class A, and the panel had considered the appeal as being against Class D. However, the review concluded that the procedural error made no difference to the outcome because a Class D appeal could not have succeeded.
9. The Council apologised to Mr X for using out of date information and offered him £100 for the inconvenience. It said this did not affect its decision on the exemption which it considered under the correct category.
10. The Local Government Ombudsman is obliged by law to consider not only any fault which a complainant has alleged, but also the injustice caused to them as a direct consequence of that failure. In this case the Council made the assessment of the exemption under the correct class and the Tribunal also assessed it as a Class D application. The outdated paperwork did not affect the outcome of the decisions and there is insufficient injustice to warrant an investigation by the Ombudsman.

## Final decision

11. The Ombudsman should not investigate this complaint. This is because there is insufficient evidence of injustice caused to Mr X which would warrant an investigation.

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