

**Report by the Local Government and Social Care
Ombudsman**

**Investigation into a complaint about
Coventry City Council
(reference number: 21 000 098)**

11 April 2022

The Ombudsman's role

For more than 40 years the Ombudsman has independently and impartially investigated complaints. We effectively resolve disputes about councils and other bodies in our jurisdiction by recommending redress which is proportionate, appropriate and reasonable based on all the facts of the complaint. Our service is free of charge.

Each case which comes to the Ombudsman is different and we take the individual needs and circumstances of the person complaining to us into account when we make recommendations to remedy injustice caused by fault.

We have no legal power to force councils to follow our recommendations, but they almost always do. Some of the things we might ask a council to do are:

- > apologise
- > pay a financial remedy
- > improve its procedures so similar problems don't happen again.

Section 30 of the 1974 Local Government Act says that a report should not normally name or identify any person. The people involved in this complaint are referred to by a letter or job role.

Key to names used

Mr D The complainant

Report summary

Environmental Services, Public Protection and Regulation

Mr D complained about how the Council dealt with his Community Trigger request. He says it conspired with his landlord and failed to take account of all the information or include him in the review. Mr D also complained that the Council changed the date on an email so that it appeared he sent it later, and it failed to respond to his complaint.

Mr D says the Council's shortcomings have caused him upset and distress and he feels discriminated against.

Finding

Fault found causing injustice and recommendations made.

Recommendations

To remedy the injustice identified in this report, the Council has agreed to:

- apologise to Mr D for the distress it caused him;
- seek to review the Community Trigger Policy and procedures with its partners, to ensure that it reflects a pro-active approach in constructive consultation with partner agencies, looking at what more might be done by any of the partners to tackle the problem; and
- ensure that the relevant officers and Members receive training on how to effectively complete a Community Trigger review so that this fault does not recur.

The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

The complaint

1. Mr D complained the Council:
 - conspired with his landlord to deliver a negative result to his Community Trigger request;
 - failed to take account of all the information he provided or include him in the review;
 - changed the date on an email he sent to make it appear that he sent it later; and
 - failed to respond properly to his complaint.
2. Mr D says the Council's shortcomings have caused him upset and distress and he feels discriminated against.

Legal and administrative background

The Ombudsman's role

3. We investigate complaints about 'maladministration' and 'service failure'. In this report, we 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. We refer to this as 'injustice'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)

The law and policy on the Community Trigger process

4. Sections 104 and 105 of the Antisocial Behaviour, Crime and Policing Act 2014 provides a mechanism known as the 'Community Trigger' process. This allows for a review of the case where a locally determined threshold is met. It is a means of giving victims and communities a say in how antisocial behaviour (ASB) is addressed. It is intended as a safety net for those who believe they have not had a satisfactory response to their complaints about ASB.
5. The Council is part of the Coventry Community Safety Partnership. We can only consider councils' actions in a Community Trigger review. Any contribution made by other relevant bodies, such as the police, is not in our jurisdiction.
6. The Council's website says the reporting threshold for a Community Trigger is:
 - one person has reported three separate incidents about the same problem in the last six months; or
 - one person reported one incident or crime motivated by hate in the last six months and no action has been taken; or
 - at least five people have made reports about the same problem in the last six months and no action has been taken.
7. The Government issued guidance on the Community Trigger titled 'Anti-social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers. Statutory Guidance for frontline professionals'. The guidance says that a case review will be undertaken by the relevant bodies. They will share information related to the case, review what action has previously been taken and decide whether additional actions are possible.

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8. The guidance further says that the review will see the relevant bodies adopting a problem-solving approach to ensure that all the drivers and causes of the behaviour are identified and a solution sought, whilst ensuring that the victim receives appropriate support.
 9. The Coventry Community Safety Partnership's policy reflects the government guidance. It says the agencies will produce a report detailing circumstances of the trigger being invoked, the full background history, and also provide some recommendations as to how the matter should be dealt with. This report will be passed to the Community Trigger Panel, and the partnership will consider inviting the complainant to the Panel meeting.
 10. The policy goes on to say that the Panel will discuss the matter, constructively assess other partner agencies where appropriate and agree on an action plan, with timescales, that can then be communicated back to the complainant. In some cases it may be appropriate for the complainant to be present at the Panel meeting; this will be decided on a case-by-case basis. The policy says the Council is responsible for coordinating the process.
 11. If a council refuses a Community Trigger application, a person may ask for a review of that decision. For Coventry City Council, the review is completed by the Deputy Leader of the Council and Chair of the Coventry Police and Crime Board (The Deputy Leader).

How we considered this complaint

12. As part of the investigation, we have:
 - considered the information Mr D provided and discussed the issues with him;
 - made enquiries of the Council and considered the information it provided, including its file documents; and
 - considered the law, guidance, and policy set out in this report.
13. We gave the complainant and the Council a confidential draft of this report and invited their comments. The comments received were taken into account before the report was finalised.

What happened

The Community Trigger review request

14. Mr D is a housing association tenant. He was experiencing ASB and had reported this to the housing association and the Police. In summary, Mr D had made three reports of harassment, assault and homophobic hate crime to the Police, perpetrated by his neighbour and his neighbour's friends. He said his neighbour had called him a homophobic insult, had tried to intimidate him by staring into his property, and on one occasion had chased him down the street and hit him.
15. Initially, Mr D told the Police he did not want to make a statement as he did not want to make problems. When more incidents happened, Mr D decided that he did want to make a statement. However, the Police decided it did not have, nor could it obtain enough evidence to pursue a criminal investigation into the incidents Mr D had reported to it.
16. Mr D had also reported the incidents to the housing association and gave it a letter from his GP supporting his need to move house. The housing association asked him for more information, but when he asked, it did not clarify what other

information it needed. The association did, however, offer to meet with Mr D to discuss how he might progress a move.

17. Mr D contacted his Councillor and his MP asking them to make the Community Trigger review request on his behalf. The Council accepted that Mr D had met the threshold for the Community Trigger. It convened a Community Trigger Panel meeting with the housing association and the Police. The Council responded to Mr D's Community Trigger request on behalf of the Community Safety Partnership. The Council said:
 - the Police had investigated his complaints against his neighbours correctly, but as he was reluctant to discuss matters in significant detail it could not progress its investigation;
 - the housing association was satisfied its staff acted suitably when they received his reports. Mr D had chosen not to provide the information needed to progress an investigation. However, it was unlikely that the incidents he had reported would be sufficient to warrant a house move; and
 - the Panel did not 'uphold' his Community Trigger, but Mr D could pursue the individual complaint processes of the agencies concerned.
18. The Council offered to discuss what additional support Mr D might need, for example, supporting him to meet with Police, or helping him get the information required by the housing association. The Council also confirmed that Mr D could appeal against the Panel's decision if he was not satisfied with the outcome.

Mr D's appeal against the review decision

19. Mr D appealed against the Panel's decision. He said he had not refused to make a statement, and he had asked the Police to look at the CCTV footage from the incident in the street. He also said that the housing association had not made it clear what further information it needed from him.
20. The Deputy Leader considered Mr D's appeal and responded to him. He confirmed he met with the Police, the housing association, and the Council to review the Panel's decision not to uphold his Community Trigger review. He considered the paperwork and asked those attending to respond to the points Mr D had raised.
21. The Deputy Leader concluded that there was a difference of opinion between Mr D and the organisations involved. But there was no new information which affected the original decision. The Deputy Leader encouraged Mr D to accept the offer to meet with the Council, Police, and housing association to work towards resolving his concerns.
22. Mr D says the ASB behaviour has escalated. He has reported a further assault to the Police. Mr D tells us that he has been insulted in the street and feels intimidated by his neighbours and their friends.

Allegations of bias and collusion

23. Mr D asked the Council for a copy of the personal information it held about him. He found that in emails about him to the Police, the Council had used a tone he considered unprofessional and derogatory, and which showed a lack of understanding of the Community Trigger process. He was also concerned that it had told the agencies that his motivation in requesting the Community Trigger review was to get a house move and that he did not engage. Mr D complained to the Council that it had not done enough to help him and that the Council had

conspired against him with the housing association in the Community Trigger process. He said the file information showed the Council was biased against him.

24. The Council responded to Mr D's complaint. It told him that it could not consider this because it was a complaint about a decision made by a multi-agency partnership. The Council did not address Mr D's complaint that it had been biased.

The altered email

25. Mr D had also made a separate complaint. He requested an update on 8 March 2021. The Council responded to him on 30 March with a copy of his original email but with the date changed to 29 March. Mr D queried this with the Council, and it said he had emailed it on roughly 16 March. Mr D's original email shows he sent this on 8 March.

The Council's response to our investigation

26. In response to our investigation, the Council initially stressed it was not part of the service request as Mr D had reported the ASB to the Police and the housing association, but not the Council. It told us, "The Council's only involvement in this case was because the Coventry Community Safety Partnership oversee the Community Trigger process and a Council Officer along with a Police officer chaired that process. If [Mr D] had issues with the way the individual agencies investigated his case then he should have followed their individual agencies complaints processes...". The Council has since acknowledged that it could have considered to a greater extent, if there was anything it could do to tackle Mr D's issues.

Conclusions

27. The government guidance says that when completing a Community Trigger review, the relevant bodies will take a problem-solving approach to seek a solution. The Council's own policy says that the Panel will constructively assess other partner agencies where appropriate and agree on an action plan. The law and guidance on the Community Trigger is about a review of the situation, what has been done and what else could be done by any relevant agency. It is not designed to be merely an alternative complaints process looking only at whether those agencies involved to date had acted properly.
28. The Council reviewed the actions taken to date, alongside its partners. However, it did not consider if there was anything it could do to tackle the ASB under its powers, either individually or working with other agencies.
29. The Police closed the case because there would not be a realistic prospect of getting sufficient evidence for a criminal prosecution, but this does not preclude the Council from taking action in respect of ASB under its statutory duties. The Council's failure to consider its own role is fault.
30. The partnership's policy says it should consider inviting the person to the Panel meeting. The Council offered to meet with Mr D, but this was to support his contact with the Police and housing association, again failing to consider its own role in tackling ASB. The Council did not consider whether it should invite Mr D to the Panel meeting itself.
31. The Council was correct that it could not overturn the Panel decision via its complaints process, but it could have looked at Mr D's complaint about the

officer's tone and that it had been biased. However, the evidence does not suggest collusion or bias in the Council's dealings.

32. There is fault in the Council's record keeping when it misdated Mr D's email and could not say when it had received this. The Council has explained that this was due to a system error beyond its control and was not deliberate. Mr D was understandably frustrated by this. However, it did not impact on the issue Mr D complained about.
33. Overall, there is fault by the Council. It did not consider the aim of the Community Trigger review and the opportunity it presents to proactively consider what action it could take; it did not consider whether it should invite Mr D to the Panel meeting; and the Council's records of Mr D's email are not accurate.
34. The Council says that in this case, had it properly considered its role and powers it may have decided not to take action. However, it accepts that had it given its role proper consideration at the time, and had it invited Mr D to the Panel meeting, he may have been reassured that the situation had been properly explored by all potential partners, as envisaged by the law and guidance. The Council's failings caused Mr D uncertainty that the Council had properly considered his situation, or that it might have taken action that could have helped him.

Recommendations

35. To remedy the injustice identified in this report, the Council has agreed to:
 - apologise to Mr D for the frustration and uncertainty it has caused him;
 - seek to review the Community Trigger Policy and procedures with its partners, to ensure that it reflects a pro-active approach in constructive consultation with partner agencies, looking at what more might be done by any of the partners to tackle the problem; and
 - ensure that the relevant officers and Members receive training on how to effectively complete a Community Trigger review so that this fault does not recur.
36. The Council must consider the report and confirm within three months the action it has taken or proposes to take. The Council should consider the report at its full Council, Cabinet or other appropriately delegated committee of elected members and we will require evidence of this. (*Local Government Act 1974, section 31(2), as amended*)

Decision

37. We have completed our investigation into this complaint. There was fault by the Council which caused injustice to Mr D. The Council should take the action identified in paragraph 35 to remedy that injustice.