



Reply to
Telephone 01179 224666
E-mail Garfield.horner@bristol.gov.uk
Our ref
Your ref
Date February 6th 2015

Dear Mr Norman

I am writing in response to your complaint received on December 23rd 2014.

I have decided that due to the nature of the complaint I will be responding at Stage 3 of the council's corporate complaints procedure (Fair Comment). To be clear, this letter is the final stage of the procedure and is therefore the final response you will receive in relation to this matter.

I understand your complaint to be that you believe Mr Hooper conducted an investigation into a complaint about your behaviour during a councillor's surgery meeting at Avonmouth Community Centre without your involvement. You have said that you are unhappy about this and that Mr Hooper acted outside his capacity as Service Director and was not the correct officer to deal with it.

With regards the approach I have taken investigating your complaint. Firstly, I have spoken to Mr Hooper about his actions and his letter as well as the council's anti-social behaviour manager who was very familiar with the circumstances. He was also important in terms of ensuring that we followed the correct procedure. I have also taken legal advice from council solicitors on the issues of Article 6 of the European Convention on Human Rights (ECHR) and issues concerning your civil rights and the council's obligations in this respect.

With regards the letter sent to you, from my investigation I have established that there was no investigation into your conduct. The letter was intended to set out the Council's view that the conduct alleged was, from the reports received, potentially anti-social and not conducive to good public administration.

Officers interviewed were of the view that the aim of the letter was to make you aware of the issues raised, the Council's view and to offer a meeting with you to discuss the letter and the conduct alleged. I accept this view.

Article 6 of the European Convention on Human Rights (ECHR) applies to the determination of civil rights or obligations or criminal charges. A determination requires that there is a dispute or contest and a resolution procedure. It encompasses all proceedings including those between private parties, the result of which are decisive of civil rights and obligations. It applies to an investigation where there is some form of formal enquiry and both sides are invited to put their own side of the case, have the opportunity to examine the other side's witnesses and for there to be a determination by an impartial Tribunal. It is the nature of the enquiry therefore which gives rise to the expectations under Article 6 ECHR.

Civil rights and obligations is a fairly wide concept but having taken legal advice it is my view that the facility to respond to a warning is a not civil right or obligation, that the letter sent does not meet the definition of a determination for the purposes of Article 6 and that the Article 6 right to a fair hearing is therefore not engaged in this case.

In summary, a complaint was made about your behaviour following your alleged actions at the above mentioned meeting, after which the council was asked to respond to a complaint.

Mr Hooper, as Service Director with responsibility for anti-social behaviour and crime reduction, decided that the appropriate way of dealing with this complaint was to write to you, explaining what it was and why he considered that your alleged behaviour was unacceptable. He went on to request that you refrain from further behaviour as alleged and your cooperation in future was requested.

I find that Mr Hooper's actions were appropriate and proportionate and were not in breach of your Article 6 rights.

I consider this matter now closed as far as the council is concerned, however if you wish to escalate the matter you should contact the Local Government Ombudsman. Contact details can be found at www.lgo.org.uk

Yours sincerely

Garfield Homer
Customer Relations Manager