

Scottish Parliament Region: South of Scotland

Case 200502633: East Lothian Council

Summary of Investigation

Category

Local government: Complaints handling

Overview

The complainant (Mr C) complained that East Lothian Council (the Council) did not respond appropriately to complaints concerning an Orange Parade and the subsequent representations made by the Orange Lodge (the Lodge).

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) the Council improperly refused to grant a meeting to allow the Lodge to express its views on the complaints (*not upheld*);
- (b) the Council refused to hold an internal review following a request by the Lodge (*not upheld*); and
- (c) the Council refused to allow elected Council members to become involved in the complaints (*not upheld*).

Redress and recommendations

The Ombudsman has no recommendations to make.

Main Investigation Report

Introduction

1. On 13 December 2005 the Ombudsman received a complaint from Mr C, the secretary of an Orange Lodge (the Lodge). His complaint was that the Lodge was dissatisfied with the way that East Lothian Council (the Council) acted after they received complaints regarding the conduct of an Orange Parade (the Parade) held by the Lodge.

2. The complaints from Mr C which I have investigated are that:

- (a) the Council improperly refused to grant a meeting to allow the Lodge to express its views on the complaints;
- (b) the Council refused to hold an internal review following a request by the Lodge; and
- (c) the Council refused to allow elected Council members to become involved in the complaints.

Investigation

3. The investigation of this complaint involved obtaining and reading all the relevant documentation, including communication between the Lodge and the Council and the complaints received by the Council regarding the Parade. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked.

4. On 16 July 2005 the Lodge held an Orange Parade. On 25 July the Council received a complaint via the local Community Council that the volume of the music being played by the parade had significantly increased when passing a Catholic Church where Evening Mass was taking place. The Council informed the Lodge of this complaint by letter on 2 August 2005. This letter also indicated that a copy would be sent to Lothian and Borders Police (the Police).

5. The Lodge responded to the letter on 14 August 2005 requesting a copy of the complaint, a copy of any response from the Police and details of when the matter would be discussed by East Lothian Councillors. The letter also stated that the Lodge had not been notified of any conditions attached to the granting of

permission for the Parade to be held but, being aware of them, had nonetheless complied with them.

6. The Customer Service Manager of the Council replied on 29 August 2005. She apologised for the oversight of the Lodge not receiving notification of the conditions of the Parade, enclosed a copy of the complaint received on 25 July 2005 and indicated that no response had yet been received from the Police. She also said that no further action was to be taken as a result of the complaint, but that 'it may be beneficial to meet with [the Lodge] next year to discuss the parade when [the Lodge] apply for permission and it might be beneficial for a representative from the Police to be involved in that meeting'. The Council wrote again on 23 September 2005 telling the Lodge that the Police, at a routine meeting with the Council to discuss matters of common interest, had confirmed that the Parade had complied with the required conditions. The Lodge were also, however, informed that further complaints had been received. As a result, if the Lodge submitted an application for a Parade the following year, a meeting would be held to 'determine the most appropriate way to hold the March which would not cause upset to members of the local community'.

7. The Lodge wrote to the Chief Executive of the Council in early October 2005 indicating their dissatisfaction with the Customer Service Manager's letters. The Lodge requested copies of the further complaints, asked why they were not permitted to send a representative to the meeting between the Council and the Police when the matter was discussed, expressed the opinion that it would be too late to discuss the matter at a meeting the following year and requested that some kind of tribunal be convened involving elected Councillors in order to publicly exonerate the Lodge.

8. The Chief Executive responded on 28 October 2005. He stressed that no-one within the Council had first-hand knowledge of the events of 16 July 2005 and explained that two further complaints had been received by the Council solicitor via a Councillor and an MSP. The Customer Service Manager was not aware of these until after the first letter had been sent. Copies of these complaints, with personal details of the complainants obscured, were supplied to the Lodge. The Chief Executive also told the Lodge that the meeting between the Council and the Police had been routine and a number of issues were discussed. It would not have been

appropriate for the Lodge to be represented. He also clarified that the proposed meeting before the next Parade would not be to discuss the events of the Parade in 2005 or the legitimacy of the complaints received, but to discuss the application with the aim of ensuring that the Parade in 2006 would be held without complaint. The Chief Executive also said that the Council had no remit to hold a tribunal relating to the matter and that, therefore, no such tribunal would be held. He closed the letter by indicating that if the Lodge were unhappy with the way their request for information had been handled they could request the Council undertake an internal review, and that if they remained dissatisfied subsequent to this they could contact the Scottish Information Commissioner. If they felt they had received any other unfair treatment they could contact the Ombudsman.

9. The Lodge wrote to the Chief Executive on 6 November 2005 requesting copies of the replies to the further complaints. They indicated that they remained dissatisfied with the method by which the matter had been processed by the Council and, for this reason, requested an internal review.

10. The Chief Executive responded on 14 November 2005. As well as enclosing copies of the replies to the complaints, he indicated that the Council would not hold an internal review in respect of the Lodge's continued dissatisfaction. He reiterated that if they felt they had been treated unfairly they could contact the Ombudsman.

(a) Conclusion

11. The Council made it clear in their letters of 29 August and 28 October 2005 that no further action was to be taken in relation to the complaints received (see paragraphs 6 & 8), and clarified that the meeting following the application for a Parade in 2006 would not be an examination of the events of the 2005 Parade on 28 October (see paragraph 8). The Council did not suggest that they had reached any conclusion on the legitimacy of the complaints received and clearly stated that no decision-making forum had been held regarding the matter. The Lodge had made their views on the complaints clear and the Police confirmed that the Parade had complied with the required conditions. Although it is understandable that the Lodge were concerned that they were being criticised over events that they disputed, the matter was not a public one and, in fact, they were able to raise their grievances in an appropriate way with the Council. In my view there was,

therefore, no need for any meeting to allow the Lodge to express its views and, accordingly, I do not uphold the complaint.

(b) Conclusion

12. The Chief Executive indicated that the Lodge could request an internal review. This, however, related specifically to the Council's obligations to provide information under the terms of the Freedom of Information Act. The Lodge's request for a review was clearly about their dissatisfaction with the method by which the matter had been processed by the Council. The Chief Executive could have been more explicit in his response and pointed out the Lodge's misunderstanding of the basis on which a review could have been requested. His indication that this dissatisfaction was a matter for the Ombudsman rather than an internal review was, however, appropriate. Therefore, I do not uphold the complaint.

(c) Conclusion

13. It is clear that there were complaints received, one of which was via a Councillor, and also clear that the Council have a responsibility to receive and consider such complaints. It is equally clear that, having begun correspondence with the Lodge, Council officials decided that there was no need to take action on them. It is noted that a suitable accommodation was reached for the 2006 Parade to the satisfaction of all parties.

14. The Council made it clear in their letters of 29 August and 28 October 2005 that no further action was to be taken in relation to the complaints received (see paragraph 6 & 8). The Lodge had asked that the Council convene a tribunal relating to the matter that would involve elected Councillors (see paragraph 7). The Chief Executive pointed out that the Council had no remit to hold such a tribunal (see paragraph 8). As no action was being taken there was no need for elected Councillors to become involved in considering the complaints. The Lodge wished to be publicly exonerated of the allegations made in the complaints to the Council. However, I have seen no evidence to show that these allegations were made public by the Council or elected Councillors. Finally, there is no evidence to suggest that the Council prevented individual Councillors from becoming involved. Indeed, one of the complaints was received via a Councillor. Therefore, I do not uphold the complaint.

27 February 2007

Explanation of abbreviations used

Mr C	The complainant
The Council	East Lothian Council
The Lodge	an Orange Lodge of which Mr C was the secretary
The Police	Lothian and Borders Police
The Parade	The Orange Parade held by the Lodge on 16 July 2005