

Complaint reference:
16 013 065

Complaint against:
North Tyneside Metropolitan Borough Council

The Ombudsman's draft decision

Summary: Mr X complains the Council has not adequately maintained a public park where he lives. The Ombudsman does not intend to investigate this complaint as she is unlikely to find fault in the Council's actions. Also she does not consider Mr X has suffered a significant personal injustice.

The complaint

1. Mr X complains the council has failed to maintain a public park where he lives. He says it has:
 - Failed to maintain the depth of the lake leading to risks to wildfowl from anglers lines and hooks
 - Failed to keep the lake outlet grille clear leading to flooding
 - Failed to heed advice on methods and frequency for clearing blockages
 - Failed to prosecute those responsible to blocking the outlet grille
 - Failed to remove litter
 - Failed to cut back vegetation and remove debris from the lake
 - Erected a poorly built stone wall and installed a poorly engineered path

The Ombudsman's role and powers

2. The Ombudsman investigates complaints of injustice caused by maladministration and service failure. I have used the word fault to refer to these. 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)*)
3. She must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. She provides a free service, but must use public money carefully. She may decide not to start or continue with an investigation if she believes:
 - it is unlikely she would find fault
 - the fault has not caused injustice to the person who complained
 - the injustice is not significant enough to justify her involvement

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

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How I considered this complaint

4. I considered the information provided by Mr X and the Council's responses to his complaints.
5. Mr X has the opportunity to comment on this draft decision.

What I found

6. Mr X lives near a nature reserve maintained by the Council. He complained to the Council about the issues noted in paragraph one above.
7. The Council responded. It told Mr X the reasons it did not dredge the lake and that the local licensed angling club had not raised the silt level as a potential for causing harm to wildfowl.
8. It also told him the action it had taken regarding the outlet grille followed the advice provided by its asset management team, biodiversity officer and surface water project engineers. Local flooding in 2012/13 was not solely down to the blocked grille.
9. A warden maintains the park with help from the park warden team and local volunteers. The park has a high standard of cleanliness and work to clear litter is an ongoing process. Clearing debris from the lake has to be controlled and usually takes place during the autumn. This is because of the inherent dangers in removing items from open water.
10. Because the park is a nature reserve vegetation growth is encouraged. The Council has assessed the wall and path as fit for purpose with no outstanding health and safety issues.

Assessment

11. Mr X disagrees with the way the Council maintains the park. However, the Council has considered his complaints and explained the reasons for the actions it has or has not taken. These are decisions it is entitled to make and without supporting evidence of maladministration the Ombudsman cannot criticise this.
12. Although Mr X lives nearby and uses the park I do not consider that he has suffered any significant personal injustice as a result of the way the Council manages the park.

Draft decision

13. I do not intend to investigate this complaint as it is unlikely I will find fault in the Council's actions. Also I do not consider that Mr X has suffered a significant personal injustice.

Investigator's draft decision on behalf of the Ombudsman