

**Complaint reference:**  
16 013 065

**Complaint against:**  
North Tyneside Metropolitan Borough Council

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

Summary: Mr X complains the Council has not adequately maintained a public park where he lives. The Ombudsman will not 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.

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## **The complaint**

1. Mr X complains the council has failed to maintain a public park where he lives. The actions he complains about include:
  - Failure cut back vegetation and to maintain the depth of the lake
  - Failure keep the lake outlet grille clear, to heed advice on methods for frequency and clearing of blockages and the remove unauthorised grille assemblies
  - Failure to prosecute those responsible for blocking the outlet grille
  - Failure to remove litter and debris from the park
  - Created a poorly engineered path and failed to maintain an existing path
  - Illicitly used section 106 funding for a new path
  - Blocked the lake outlet grille with sandbags.

## **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

(*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 commented on the draft version of this 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. Mr X lives nearby the park and uses it regularly. However he has confirmed his complaint is not personal but for all those who use the park. Therefore I do not consider that he has suffered any significant personal injustice as a result of the way the Council manages the park.

## **Final decision**

13. I will not 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 decision on behalf of the Ombudsman**