

7 March 2018

Complaint reference:
16 017 837

Complaint against:
Wirral Metropolitan Borough Council

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Mr D's complaints about a Council owned local community and business centre. This is because the group he represents has not experienced a significant direct injustice. We will also not investigate delays by the Council in responding to Mr D's queries. This is because we do not investigate complaint delays where we are not considering the substantive matter.

The complaint

1. Mr D complains about matters relating to a local community and business centre (The Centre). In particular, he complained the Council was at fault because it had allowed The Centre to breach:
 - its lease in relation to its permitted use; and
 - its articles of association because of various issues about The Centre's membership and number of directors. This included complaints against councillors who were former directors.

The Ombudsman's role and powers

2. We investigate complaints about 'maladministration' and 'service failure'. In this statement, I 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. I refer to this as 'injustice'. We provide a free service, but must use public money carefully. We may decide not to start or continue with an investigation if we believe the fault has not caused injustice to the person who complained or the injustice is not significant enough to justify our involvement.
(Local Government Act 1974, section 24A(6), as amended)

How I considered this complaint

3. I considered the information provided by Mr D. This included copies of complaints correspondence.
4. Mr D has had the opportunity to make comments on the draft of this decision.

What I found

5. In December 2016, Mr D complained to the Council, as Chairman of a Local Group, about issues relating to The Centre. The Centre is owned by the Council who leased it to a charitable company for a period of 125 years.
6. The Council did not provide a response until January 2018. It apologised for the delay and told Mr D that:
 - it considered The Centre continued to fulfil its community obligations as set out in the lease; and
 - if he had concerns about membership issues, he should complain to the Charity Commission.
7. Mr D disagreed with the Council and complained to the Ombudsman.
8. I will not investigate this complaint. The Ombudsman provides a free service, but must use public money carefully. We will not generally start an investigation if we believe the person or group has not been caused a significant injustice as a direct result of the actions or inactions of the service provider.
9. Mr D has not claimed that he or the group he represents wishes to lease space at The Centre and have been prevented because of the alleged breaches. He has also not demonstrated any other direct significant injustices which have been caused by the issues he complains about.
10. The Ombudsman does not investigate complaints about a council's complaints procedures where we are not considering the substantive matter. In any case, even if we were to investigate, the Council has apologised for the delay in replying to Mr D's complaint query. This is an appropriate and proportionate remedy.

Final decision

11. The Ombudsman will not investigate this complaint. This is because the group Mr D represents has not suffered a significant injustice.

Investigator's decision on behalf of the Ombudsman