

The Ombudsman's final decision

Summary: We will not investigate Mr X's complaint about the Council's handling of a building control matter. This is because we cannot achieve any worthwhile outcome for Mr X.

The complaint

1. The complainant, Mr X, complains a building control officer (BCO) working for the Council wrongly advised his builder about compliance with the Building Regulations. He says the work did not comply with the Building Regulations and as a result he was put to additional cost to put it right. He was also unable to complete the sale of his property.

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:
 - it is unlikely further investigation will lead to a different outcome, or
 - we cannot achieve the outcome someone wants, or
 - there is another body better placed to consider this complaint.

(Local Government Act 1974, section 24A(6), as amended)

3. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court. *(Local Government Act 1974, section 26(6)(c), as amended)*

How I considered this complaint

4. I reviewed Mr X's complaint and the Council's responses. I shared my draft decision with Mr X and considered his comments.

What I found

5. Mr X instructed builders to extend his property in 2014. He appointed the Council, as building inspector, to oversee the work and sign it off. He says the

Council's BCO spoke with his builder prior to the commencement of work and advised his builder on how to carry it out.

6. Some five years later Mr X agreed the sale of his property but when the buyer's surveyor came to inspect it, they identified a defect in the extension and the sale fell through. Mr X then had to pay for remedial works which the Council agreed to oversee free of charge. Mr X believes the Council is responsible for the defect and wants it to pay him compensation.
7. Building regulations set standards for the design and construction of buildings to ensure the health and safety of people in and about those buildings. They provide a means for the local authority to maintain building standards in general, rather than imposing a duty to maintain standards in each particular case.
8. Caselaw has established that even where a local authority issues a completion certificate it does not take on responsibility or liability for substandard work; this remains with those responsible for the work rather than with the Council for signing it off.
9. Because we cannot say the Council is liable for the substandard work we cannot recommend it pays Mr X compensation for the cost of putting it right. If Mr X believes his case can be distinguished from legal precedent on the subject he would have to argue this at court; it is not for us to decide the court's decisions do not apply in his case.

Final decision

10. We will not investigate this complaint. This is because we cannot achieve any worthwhile outcome for Mr X.

Investigator's decision on behalf of the Ombudsman