

The Ombudsman's final decision

Summary: We will not investigate this complaint that the Council handed over allotments to the Town Council before they were up to specification. This is because the events happened too long ago, and we cannot achieve the outcome the complainant seeks.

The complaint

1. The complainant, who I will call Miss X, complains about flooding on an allotment she rents. She says the Council should not have signed off the allotments as they are not fit for purpose and that it should carry out work to improve drainage on the site.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure', which we call 'fault'. We must also consider whether any fault has had an adverse impact on the person making the complaint, which we call 'injustice'. We provide a free service, but must use public money carefully. We do not start or may decide not to continue with an investigation if we decide we cannot achieve the outcome someone wants. (*Local Government Act 1974, section 24A(6)*)
3. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)

How I considered this complaint

4. I considered information provided by the complainant and the Council.
5. I considered the Ombudsman's Assessment Code.
6. The complainant has had an opportunity to comment on my draft decision and I considered their comments before making a final decision.

My assessment

7. The Council approved a planning application for the development of dwellings. One of the conditions of the planning permission was that the developer would create a site to be used as allotments. In 2019, the allotments were transferred over to the control of the Town Council and the allotments were opened in early March that year.

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8. I will not investigate this complaint. This is because the Council approved the allotments for use in early 2019 and residents started using them in March that year. Therefore, the events happened too long ago and I see no reason why the complaint could not have been brought to the Ombudsman sooner.
 9. Furthermore, we could not achieve the outcome that Miss X seeks. The upkeep and maintenance of the allotments is no longer the responsibility of the Council as they are under the control of the Town Council. We therefore could not compel the Council to carry out further works to them

Final decision

10. I will not investigate Miss X's complaint. This is because the events happened too long ago, and we cannot achieve the outcome she seeks.

Investigator's decision on behalf of the Ombudsman