

The Ombudsman's final decision

Summary: Miss X complains about the Council's negligence in emptying a private garage belonging to her parents. The Ombudsman should not investigate this complaint. This is because this is a civil matter concerning private ownership and negligence and it could only be remedied by insurers or the courts.

The complaint

1. The complainant, whom I shall call Miss X, complains about the Council clearing a garage which it believed was council property and not that of her parents. She says many personal items were lost and that she had to sell her parents' home without the title to a garage which reduced its value. She wants the Council to compensate her for its negligence.

The Ombudsman's role and powers

2. 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

3. I have considered all the information which Miss X submitted with her complaint. I have also considered the Council's response and Miss X has commented on the draft decision.

What I found

4. Miss X says the Council cleared a garage of possessions belonging to her parents who she believed were the owners of the garage. The Council says it believed the garage to be Council property at the time when it was cleared for re-letting in 2017.
5. Following Miss X's complaint, the Council checked the property deeds and says the garage which was sold with the property was one of a block and that the deed plans have some discrepancy with what is on the ground. The Council sold the house and a garage in 1974. Miss X's parents bought the property in 2004 and the Council says the solicitor who did the conveyance should have noticed the discrepancy at the time.

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6. The Council received enquiries about letting the garage in 2017 and it cleared the contents for reletting because it believed it was council property. When Miss X complained it checked the deeds and it is now uncertain because of the anomalies on the plans. It offered Miss X assistance with any legal fees to transfer the title of the remaining garage. Miss X says she had to sell the property without title to the garage because of an outstanding mortgage. She wants the Council to compensate her.
 7. The Ombudsman does not normally investigate complaints about losses due to negligence claims and we cannot resolve disputes about the title to land. These are private matters which can only be determined by insurers or the courts where a council does not accept liability.

Final decision

8. The Ombudsman should not investigate this complaint. This is because this is a civil matter concerning private ownership and negligence and it could only be remedied by insurers or the courts.

Investigator's decision on behalf of the Ombudsman