

Complaint reference:
14 015 131

Complaint against:
Manchester City Council

The Ombudsman's final decision

Summary: The Ombudsman has upheld the complaint. The Council's wording of a Traffic Regulation Order was unlawful, and it delayed dealing with Mr B's complaint.

The complaint

1. The complainant, who I will call Mr B, says the Council unlawfully fenced off a public street and charged admission. Mr B says he paid a significant fee for a wristband to walk the public streets which he was entitled to do without the wristband. Mr B also complains the Council delayed responding to his complaint.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. She must also consider whether any fault has had an adverse impact on the person making the complaint. I refer to this as 'injustice'. If there has been fault which has caused an injustice, she may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1)*)
3. If the Ombudsman is satisfied with a council's actions or proposed actions, she can complete her investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i)*)

How I considered this complaint

4. I considered information provided by Mr B, including information from the Department for Transport and the Council. I shared a draft of this decision with both parties and considered the responses received.

What I found

5. An event took place in Manchester city centre. To facilitate the event the Council arranged road closures and charged for access, for safety and security.
6. Section 16A of the Road Traffic Regulation Act 1984 is about the prohibition or restriction on roads in connection with certain events. This allows the traffic authority to temporarily restrict or prohibit the use of a road by vehicles or pedestrians. However, any such restriction cannot prevent pedestrians from accessing particular premises that they may need to access.
7. The Council sent a Traffic Regulation Order to the Department for Transport to allow the road closures, which the Department for Transport granted.

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8. The Order said that pedestrians could access premises by displaying a valid wristband, accreditation, or a resident and visitor pass. This was fault, because the Council has no legal basis in which to restrict pedestrians from accessing premises. Therefore if someone wished to access a particular premise the organisers should have allowed access even if the person did not have a wristband, accreditation, or a resident and visitor pass.
 9. The Department for Transport has confirmed that pedestrians wishing to access premises that can only be accessed from the restricted roads must be granted entry to those roads.
 10. The Council accepts during the 2014 event the organisers sometimes restricted access to premises; this was fault. The Council says the company running the event assured the Council it would allow visitors entry who needed to access certain premises and would escort them to the premises in question. This approach would be lawful.

Fault and injustice

11. Under the Road Traffic Regulation Act 1984 the Council can restrict access to roads and streets. I have seen nothing to show the Council cannot charge for access as Mr B suggests.
12. There is fault in the way the Council worded the Order but I cannot say this caused Mr B an injustice. Mr B has not said the event organisers refused him access to a specific premise.
13. The Council took three months to respond to Mr B's complaint; this is well outside its service standard of ten days. The Council explained to Mr B that his correspondence was sent to the wrong department who then overlooked it. The Council admits this was unacceptable and apologised to Mr B. I consider this is suitable action in response.

Agreed action

14. There was fault in the Council's wording of a Traffic Regulation Order, and there was delay in responding to a complaint. To improve future practice the Council:
 - a) Will consider how to redraft the Traffic Regulation Order to facilitate the event in 2015. It will ensure the Order is lawful and is clear that access to premises accessible only from the restricted highways will be allowed at all times. The Council will speak with the company who organises the event to clarify the legal powers under section 16A of the Road Traffic Regulation Act 1984. These actions will be put in place before the event takes place this year.
 - b) Has changed its procedures for complaints handling as a direct result of lessons learned from this complaint. This includes a change to how highways officers allocate complaints to ensure they will always be picked up and dealt with.

Final decision

15. There was fault by the Council but I cannot say it caused Mr B an injustice. I am satisfied the agreed action to improve future practice is sufficient. I have completed my investigation on this basis.

Investigator's decision on behalf of the Ombudsman