



**Ombwdsmon
Ombudsman**
Cymru • Wales

Our ref: 202309028/SE/SW

Ask for: Steffan Evans



01656 641196

Date: 5 April 2024



Steffan.Evans

@ombudsman.wales

PERSONAL & CONFIDENTIAL

Mr Peter Boden-Ryan
Mount Pleasant
Graig Llanguicke
Ynysmeudwy
Neath Port Talbot
SA8 4PS

By email only

info@visitpontardawe.com

Dear Mr Boden-Ryan

Complaint against Neath Port Talbot Council

I have now considered your complaint, on behalf of a local residents' group, against Neath Port Talbot Council ("the Council"), which we received on 16 February 2024.

Your complaint

Your complaint related to the prolonged closure of a local school and the rationale to demolish the building this spring. You said there were numerous concerns which had gone unaddressed by the Council. You said you had used the date of the first document that had received no reply (i.e. June 2023) as the date that you first became aware of the problem, although this issue had been a long-running concern. You said there had been no reply to numerous concerns raised since 2023.

You said the Ombudsman had previously investigated elements of the issue in 2021 and there was a concern that undertakings from that time had not been kept by the Council. You said that assurances had previously been given by the Council to this office that the matter would be reviewed once the outcome of the school reorganisation programme was decided, but that had not happened, which was unacceptable.

Page 1 of 3

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We are happy to accept and respond
to correspondence in Welsh.

You said that the matter had a widespread detrimental impact on the local community. You said that a great many people were concerned about the closure of the school.

You believed there was no rational reason for the prolonged closure and you were concerned at the amount of inaccurate information which had been published, which was unacceptable.

You said you appreciated that the Ombudsman could not tell the Council not to demolish the school building, however you believed that the process which arrived at that decision was flawed and should be reviewed.

What we do

We consider complaints of maladministration or service failure on the part of public bodies which causes hardship or injustice to members of the public. We normally take maladministration/service failure to mean that the body concerned has not acted in accordance with its policies or procedures.

In considering a complaint, we take account of the Ombudsman's legal powers and jurisdiction, as well as thinking about whether our intervention is proportionate taking account of our limited resources, or if anything further can be usefully achieved.

My decision

My role is to consider, on the Ombudsman's behalf, the complaint you put to us and to assess whether, or to what extent, we can help you.

I have carefully considered the information you provided and information from the Council. I have also consulted with my line manager, Mr Greg Phillips. Having considered all the information, I am sorry to tell you that your complaint is not one which we can or should investigate. I will explain the reasons for my decision.

The Public Services Ombudsman (Wales) Act 2019 defines who may complain to us and when we may investigate a complaint. We are not normally able to investigate a complaint unless it was made to us within twelve months of the complainant first becoming aware of the problem. I note that the decision to demolish the school was made in December 2022. Your concern about the process which arrived at that decision is therefore substantially out of time.

On the basis of the information you have supplied, I cannot see that there are exceptional circumstances which would justify us exercising discretion to accept it out of time for investigation.

In any event, I should explain that the appropriate route to challenge the Council's decision to demolish the school building would have been by way of Judicial Review.

We cannot investigate a complaint for which there is a remedy by way of proceedings in a court of law unless we are satisfied that it was not reasonable to expect you to take legal action.

Whilst I note that you have said that the residents' group does not have the means to take legal action and that it was unclear that such action was an option, a Judicial Review would have been the appropriate means by which to challenge the Council's decision to demolish the school.

With respect to your concern about the Council's alleged failure to properly respond to your residents' group since June 2023, that issue is, on the face of it, in time to this office. However, the issue is inextricably linked to the decision to demolish the school building. Whilst we expect public bodies to respond to reasonable queries and concerns, I do not consider that it would be a proportionate use of this office's resources to investigate this issue in isolation, in light of our position (as stated above) and inability to intervene in respect of the decision to demolish, which is the ultimate focus of your complaint.

As regards your concern about undertakings previously given by the Council in 2021 following an Ombudsman investigation, I am satisfied that the case in question has no implications for the reasoning I have applied above.

Whilst I have decided that we will not investigate your complaint, I would like to stress that this does not mean I am not sympathetic to the problems you have described. My decision is based upon the information I have seen. If you would like to discuss the matter with me, then you can contact me on the number at the top of this letter.

Procedural matters

An anonymised copy of this letter, which constitutes a formal statement of reasons for the decision not to investigate your complaint, has been sent to the Council.

If you have not already done so, I would be grateful if you would complete customer satisfaction and equality questionnaires. These can be accessed at www.ombudsman.wales/customersatisfaction If you would prefer paper copies please contact us.

Yours sincerely



Steffan Evans

Swyddog Ymchwilio/Investigation Officer