

19 May 2021

**Complaint reference:**  
20 008 854

**Complaint against:**  
City of York Council

## **The Ombudsman's final decision**

Summary: Mr B complains he missed out on superfast broadband because the Council's road adoption information was not accurate. We find fault with the Council for failing to update its records. The Council agreed actions to remedy the injustice to Mr B.

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## **The complaint**

1. Mr B complains the Council failed to update records to show his road was adopted. He says because of the Council's maladministration he was unable to have cables laid for faster broadband.
2. Mr B says this means he has missed the opportunity to have access to this service. He also says he experienced frustration, time and trouble pursuing the issue with the Council.

## **The Ombudsman's role and powers**

3. 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'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

## **How I considered this complaint**

5. I considered the information provided by Mr B and the Council with relevant law and guidance.
6. Mr B and the Council had the opportunity to comment on my draft decision. I carefully considered all the comments I received.

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## What I found

### Law and guidance

#### The Highways Act 1980

7. Section 38 of the Act provides Council's with the powers to enter into an agreement to take over (adopt) a newly constructed road.
8. The 'section 38 agreement' is made between a developer and Council.

### Geoplace

9. Geoplace is the central information source for UK addresses and streets. Its database includes the National Address Gazetteer. This brings together the Council's address datasets with other datasets such as Ordnance Survey and Royal Mail.
10. Utility companies use the information from the National Address Gazetteer when carrying out work to identify adopted and unadopted roads.

### What happened

11. In January 2019 Mr B received a letter from an internet provider about superfast broadband installation in his street. It asked him to sign an agreement about the installation. Mr B replied and pointed out the agreement should not be necessary because his road was not private. Mr B said the Council adopted the road in 1997.
12. In July 2019 the Council checked its systems and the road was still recorded as unadopted. The Council found the paper copy of the original adoption from 1994. The Council sent confirmation of the adoption to the internet provider. It also said this issue had previously arisen in 2017 and the adoption had also been confirmed then.
13. In August 2019 the Council updated its own system and requested the update to be sent to Geoplace.
14. In March 2020 Mr B complained to the Council. He said its failure to update the systems with the correct information about the road adoption meant he missed out on superfast broadband installation.
15. Between March and November 2020 Mr B's complaint was considered through the Council's complaint process. It provided a final response in November 2020. It said:
  - The issues were with a piece of software the Council uses. They have worked with the supplier to resolve issues, but it is old software and the Council is looking to replace it.
  - The Council was aware that because of the software issues some of the data sent to Geoplace was not always up to date.
  - The Council did share the correct information about the street adoption with the contractors. The decision not to work on Mr B's street was made with the knowledge the street was adopted.
16. Mr B remained unhappy and complained to the Ombudsman.

### My findings

17. I find fault with the Council for failing to ensure its records were accurate. The Council was aware of the issues about the street adoption records before 2019 and failed to take action to correct this. On balance I find that because of this fault

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the utility company did not install the broadband cables to Mr B's property in 2019.

18. The Council did attempt to resolve the issue by confirming the road adoption with the company, but it was too late, and the company had already completed the work in Mr B's area and moved on. This situation could have been avoided if the correct information was on the database.
19. This caused Mr B an injustice. He missed the opportunity to have faster broadband. He also experienced the inconvenience of pursuing the matter with the Council. I am concerned the issue appears to be ongoing and could affect other residents in the Council area.

### **Agreed action**

20. Within one month of my final decision the Council agrees to:
  - Apologise to Mr B for the faults identified in this statement.
  - Pay Mr B £300 to acknowledge the lost opportunity and avoidable time, trouble and inconvenience it caused him.
  - Provide evidence Mr B's address information is correctly updated on both the Council's road adoption system.
  - Provide evidence it has informed Geoplace of the correct information in respect of Mr B's address.
21. Within three months of my decision the Council agrees to:
  - Complete a review of its road adoption system. The review should consider how it is kept up to date and accurate.
  - Within one month of completing the review report the findings to Councillors and seek approval for changes and recommendations.
  - Within two weeks of the Councillors decision write to Mr B and explain what action it will take and what the timeframe will be for completion.
  - Provide the Ombudsman with a copy of the review report, agreed actions and timeframe for completion.
22. The Council should provide the Ombudsman with evidence it has completed all the above actions.

### **Final decision**

23. I intend find fault with the Council causing injustice.

### **Investigator's decision on behalf of the Ombudsman**