

Section G: Leisure and recreation

G1: Libraries

Display of material – industrial dispute

1. A council refused Mr Smith's request to display in the council's public libraries a leaflet about an industrial dispute.
6. Mr Smith suggested that the council had not acted in a neutral fashion. He drew the Ombudsman's attention to a leaflet issued jointly by the council and the company. That disputed the case put forward by the trade union representing the care workers. The same material was displayed in poster form in one of the council's libraries.

What happened

2. Mr Smith was a member of a campaign in support of employees of a company supplying care services, who were in dispute with their employer. Mr Smith wanted to display in public libraries run by the council, printed material supporting the campaign and a separate document advertising a fundraising event for the benefit of workers involved in the dispute. Permission to do so was refused by the council.
3. The care company was a private limited company. Five of the six shares in the company were held by a trust and the sixth share was held by the council. The council provided administrative support to the trust.
4. The council said that it maintained a position of neutrality in the dispute and believed it would have infringed this by displaying material produced by either party. The council also said that some of the contents of the leaflet about the dispute, which Mr Smith wanted to display, were potentially defamatory and would have left the council at risk of legal action if the leaflet had been displayed. That view was taken on the advice of the council's senior legal officer.
5. The council did not suggest that the separate advertisement for the fundraising event was defamatory. However, it said that the event was only a few days after the advertisement was received and that there was insufficient time to consider whether it should be displayed.
7. The Ombudsman accepted that it was reasonable for the council, in the light of its legal advice, not to display material which it believed was potentially defamatory.
8. However, the council did not suggest that the advertisement for the fundraising event was defamatory. The Ombudsman considered that it was unreasonable to claim that there was insufficient time to make a decision about whether it could be displayed. It was a simple decision which could have been made very quickly.
9. The Ombudsman found it difficult to reconcile the council's claim of neutrality with the issue by the council, jointly with the care company, of publicity material which could objectively only be viewed as contentious. Displaying material of that sort in support of one of the parties to the dispute, while refusing to display a relatively uncontentious advertisement for a fundraising event, seemed to demonstrate a failure to maintain the professed neutrality. This was maladministration which caused injustice to Mr Smith, as he was entitled to feel that he had not been dealt with in an even-handed manner.

The Ombudsman's view

Outcome

10. The Ombudsman asked the council to note these comments and be guided by them in the future. In the circumstances the publication of the report was a sufficient remedy for the injustice.

(Report 98/C/4301)