



Section A

# Commercial

A1

Amusements

4

# A1: Amusements

Short term concession to operate business in park – undertaking to review arrangement not honoured – no opportunity given to respond to concerns

Mrs Engadine complained that a council acted wrongly in refusing to grant a further concession for her to operate her business in a public park in the council's area.

## What happened

1. The business was operated by Mr Engadine. It provided amusements for children between three and eight years old.
2. Mr Engadine was granted a concession by the council to operate the business for one season. In granting the concession, the council advised him that it would review the concession with him at the end of the season, with a view to making the concession permanent.
3. During the season the council received adverse comments about the appearance of the facilities from surrounding residents. The council officer responsible for the concession observed what he considered to be a breach of the agreement because Mr Engadine operated the concession during the local carnival week.
4. After the concession ended, the officer responsible decided that it should not be renewed. He claimed that this was because it was not the council's policy to renew agreements with parties who were in breach of their agreement. Mr and Mrs Engadine were not involved in any review of the concession.
5. Following a complaint from Mrs Engadine, a senior officer investigated and concluded that the agreement had not been breached. Nevertheless, the council refused to grant a further concession.

## The Ombudsman's concerns

6. The Ombudsman said that the council did not take proper steps to maintain a dialogue with Mr and Mrs Engadine within, during or after the concession. It was clear that many problems were drawn to the council's attention. It was therefore difficult to understand why the council took no steps to discuss with Mr and Mrs Engadine any of the concerns it had.
7. The result was that Mr and Mrs Engadine were given no opportunity to explain their position or to address any shortcomings. That failure was aggravated by the fact that the council had given Mr Engadine a written assurance that it would review the concession with him.
8. The breakdown of communication was all on the council's side. It was maladministration.
9. The Ombudsman said it was also maladministration for the council not to consent to the review it had promised in writing.
10. As the council did not raise its concerns with Mr and Mrs Engadine during the concession, the Ombudsman could not understand how the council could say that the problems were not capable of being addressed. Mr and Mrs Engadine were given no opportunity to respond in any way. Mr Engadine said that options were available to respond to each of the concerns raised.

11. Whether or not those options were satisfactory to the council was never tested. That left Mr and Mrs Engadine with an understandable sense of injustice in that they were denied the opportunity to defend or improve their running of the concession. Had they been given that opportunity, they might have been able to secure its renewal.

#### **Outcome**

12. The Ombudsman recommended that the council should make a payment of £500 to Mr and Mrs Engadine. He also recommended that the council should meet them to discuss whether there were opportunities for them to operate a concession on that or another site in the council's ownership.

*(Report 00/B/8826)*