

The Ombudsman's final decision

Summary: The Ombudsman does not propose investigating Mr X's complaint about the Council's handling of a penalty charge notice. This is because Mr X paid it when he could have appealed to the London Tribunals if he disputed the Council's actions.

The complaint

1. Mr X complains the Council continued to act on a penalty charge notice (PCN) even though he contested it, increasing the fine and threatening him with enforcement action.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes limits on what we can investigate.
3. The law says we cannot normally investigate a complaint when someone can appeal to a tribunal. However, we may decide to investigate if we consider it would be unreasonable to expect the person to appeal. (*Local Government Act 1974, section 26(6)(a), as amended*)
4. London Tribunals (previously known as the Parking and Traffic Appeals Service) considers parking and moving traffic offence appeals for London.

How I considered this complaint

5. I have considered all the information put in by Mr X with his complaint.
6. Mr X has commented on my draft decision.

What I found

7. The Council issued Mr X a PCN for making an illegal turn.
8. If someone wishes to dispute a PCN they can make an informal challenge. Alternatively, they have 14 days to pay the fine at a discounted rate of 50%. If they do not pay, or the Council rejects the informal challenge, the full amount becomes payable.
9. The Council sends a Notice to Owner to the registered keeper of the vehicle. If the owner thinks the Council should not have issued the fine they can use the Notice to Owner to make a formal challenge.

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10. If the Council accepts the challenge it cancels the PCN. If not, then it issues a Notice of Rejection. The owner can use the Notice of Rejection to appeal to the tribunal.
 11. Mr X says he did not receive the Council's letter about the PCN. He says the Council increased the fine to £195. He paid the original amount of £65, because he said the Council was threatening him with the County Court.
 12. Mr X says the Council threatened him with enforcement action so he paid the full amount of £195 to stop this happening.

Analysis

13. Mr X had an appeal against the PCN at every stage of the process. If he disagreed with the penalty, or the actions the Council was taking, he should have used his right of appeal.
14. Mr X paid the PCN in full. This means he accepted the penalty and lost his right of appeal.
15. It is reasonable to expect Mr X to have used his appeal if he disputed the penalty. The Tribunal is the correct body to consider disputes about PCNs. The Ombudsman does not act as an appeal body.

Final decision

16. The Ombudsman should not investigate this complaint. This is because it would be reasonable for him to have appealed to the Tribunal.

Investigator's decision on behalf of the Ombudsman