

18 October 2018

Complaint reference:
18 008 147

Complaint against:
London Borough of Havering

The Ombudsman's final decision

Summary: The Ombudsman will not investigate this complaint about two Penalty Charge Notices. This is because the Council has agreed to revert both fines to the Notice to Owner stage. This is a fair response.

The complaint

1. The complainant, whom I refer to as Ms X, says the Council sent letters about two Penalty Charge Notices to the wrong address. By the time she became aware of the fines they had each increased to £195.

The Ombudsman's role and powers

2. 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'. We provide a free service, but must use public money carefully. We may decide not to start an investigation if the Council has provided a fair response. (*Local Government Act 1974, section 24A(6), as amended*)
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 read the complaint and the letters the Council sent to Ms X about the Penalty Charge Notices. I considered the information provided by the DVLA about Ms X's address. I asked the Council if it would take the fines back to the Notice to Owner stage. I invited Ms X to comment on a draft of this decision.

What I found

Moving traffic offence

6. The Council issues a Penalty Charge Notice if it thinks someone has committed a moving traffic offence. It gets the address of the registered keeper from the DVLA. It sends a Notice to Owner to the address provided by the DVLA. The Notice to

Owner gives the person 14 days to pay at a discounted rate. The Notice also gives people the chance to appeal against the fine and explains that the fine will increase if they neither pay, nor appeal, within 28 days.

What happened

7. Council cameras recorded images of Ms X's car driving along a restricted route. This happened twice. The Council contacted the DVLA. The DVLA said that Ms X lives at address A. The Council sent two Penalty Charge Notices to address A. The fines were £130 or £65 if paid within 14 days.
8. The Council did not hear from Ms X so it issued two charge certificates which increased both fines to £195.
9. Ms X lives at address B. She did not find out about the fines until they had increased to £195. Ms X challenged the fines and said she was not willing to pay £195 because the Council had sent the letters to the wrong address. Before the Council responded Ms X complained to the Ombudsman.

Assessment

10. There is no suggestion of fault by the Council. It sent the letters to the address provided by the DVLA. I do not know why the DVLA told the Council that Ms X lives at address A but the Council had to use that address.
11. Although the Council has not done anything wrong I asked it to revert both fines back to the Notice to Owner stage. The Council agreed and sent two Notice to Owners to address B on 1 October. Ms X can either pay the fines or follow the instructions on the Notice to Owner and then appeal to the tribunal. If Ms X does wish to challenge the fines then it is reasonable to expect her to use her appeal rights. This is because the tribunal is the appropriate body to consider disputes about Penalty Charge Notices.

Final decision

12. I will not start an investigation because the Council has provided a fair remedy by taking both fines back to the Notice to Owner stage.

Investigator's decision on behalf of the Ombudsman