

The Ombudsman's final decision

Summary: The Ombudsman does not propose investigating Ms X's complaint about the Council's handling of penalty charge notices. This is because Ms X had a right of appeal to the London Tribunals if she disputed the Council's actions, or she could have paid at the discounted rate. We cannot achieve the result she wants.

The complaint

1. Ms X complains the Council has issued her with Penalty Charge Notices (PCN) because she parked at her property without using a permit. She now has an enforcement debt and wants the Council to negotiate a payment arrangement.

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.
5. 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 or continue with an investigation if we believe:
 - it is unlikely we would find fault, or
 - we cannot achieve the outcome someone wants. (*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

6. I have considered the information put in by Ms X with her complaint.
7. Ms X had an opportunity to comment on my draft decision.

What I found

8. Ms X accepts she parked outside her property without a valid permit.
9. The Council issued PCNs and Ms X has not paid them.
10. The Council has passed the debt to an enforcement agency.
11. Ms X says she cannot pay the debts and wants to set up a payment arrangement with the Council.

Analysis

12. Ms X will have received notice with all the PCNs, telling her how to appeal or how to pay at the discounted rate.
13. It is reasonable to expect Ms X to have used her appeal rights if she disputed the Council's grounds for issuing the PCNs. Parliament put in place this statutory right of appeal to protect motorists from wrongly issued penalties. The Tribunal is the correct body to consider disputes about PCNs.
14. Otherwise, if Ms X did not dispute the PCNs she had the opportunity to pay at the discounted rate. It is reasonable to expect her to have done so. Because she did not pay the Council has enforced the PCNs and the enforcement agency has added its collection fees to the debt.
15. The Ombudsman does not act as an appeal body. We do not have the powers to ask the Council to take the debt back and agree a payment arrangement.

Final decision

16. The Ombudsman should not investigate this complaint. This is because Ms X had appeal rights to dispute the PCNs or the opportunity to pay at the discounted rate. There is no fault by the Council in enforcing the PCNs and we have no powers to achieve what Ms X wants.

Investigator's decision on behalf the Ombudsman