

The Ombudsman's final decision

Summary: Mrs X complained about the Council's failure to repair the pavement near her home. The Ombudsman should not investigate this complaint. This is because there is insufficient evidence of fault by the Council which would warrant an investigation.

The complaint

1. The complainant, whom I shall call Mrs X, complains about the Council failing to repair the pavement outside her home. She says the surface has sunk and this results in a puddle forming when there is bad weather. She also complains that the pavements on her street are patched and ugly to view.

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 or continue with an investigation if we believe:
 - it is unlikely we would find fault, or
 - it is unlikely we could add to any previous investigation by the Council, or
 - it is unlikely further investigation will lead to a different outcome, or
 - we cannot achieve the outcome someone wants.

(Local Government Act 1974, section 24A(6), as amended)

How I considered this complaint

3. I have considered all the information which Mrs X submitted with her complaint. I have also considered the Council's response and Mrs X has been given the opportunity to comment on the draft decision.

What I found

4. Mrs X says the pavement near her home has sunk due to tree growth. The pavement has puddles near her gate when it rains and this makes it difficult to use her mobility scooter at times. She also says the pavement is uneven which makes using her scooter uncomfortable.

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5. Mrs X complained to the Council. The Council inspected the pavement and told her that the defects do not meet its intervention criteria for repair at present. Normally there must be a trip hazard of over 25mm for the work to be prioritised. It told her it will continue to inspect the pavements at 3 monthly intervals but it will not take action at the present time.
 6. We investigate complaints of injustice caused by 'maladministration' and 'service failure'. I have used the word 'fault' to refer to these. We cannot question whether a council's decision is right or wrong simply because the complainant disagrees with it. We must consider whether there was fault in the way the decision was reached. Councils must prioritise highway repairs according to their urgency and danger to the public. This is a matter for the highway authority to decide according to their resources.

Final decision

7. The Ombudsman should not investigate this complaint. This is because there is insufficient evidence of fault by the Council which would warrant an investigation.

Investigator's decision on behalf of the Ombudsman