

15 July 2019

Complaint reference:
19 002 601

Complaint against:
London Borough of Havering

The Ombudsman's final decision

Summary: Mrs X complains the Council failed to send notices about moving traffic violations to her correct address. And the first she became aware of it was when bailiffs clamped her car. The Ombudsman will not investigate this complaint because Mrs X may put in a late statutory declaration to the Traffic Enforcement Centre and we consider it reasonable for her to do so. The Traffic Enforcement Centre is in the best position to decide if the Council served the notices correctly.

The complaint

1. Mrs X, complains about the Council's handling of a Penalty Charge Notice (PCN). She says the Council did not send any correspondence to her address about the PCN. And she first became aware of it when an enforcement agent clamped her car and demanded £791. Mrs X complains the enforcement agent refused to allow her more time and she had to pay the fine in full even though the Council sent notices to the wrong address.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. The law says we cannot normally investigate a complaint when someone could take the matter to court. However, we may decide to investigate if we consider it would be unreasonable to expect the person to go to court. (*Local Government Act 1974, section 26(6)(c), as amended*)
4. We can decide whether to start or discontinue an investigation into a complaint within our jurisdiction. (*Local Government Act 1974, sections 24A(6) and 34B(8), as amended*)

How I considered this complaint

5. I considered the information provided by Mrs X and discussed the complaint with her. I also considered information provided by the Council.
6. Mrs X commented on the draft version of this decision.

What I found

7. The Council issued Mrs X two PCNs for moving traffic violations. The Council obtained her address from the Driver and Vehicle Licensing Agency (DVLA). The DVLA told the Council that her house number was 58.
8. The Council sent all correspondence about the PCNs to number 58. It did not receive any response and the PCNs were not paid. It passed the case to enforcement agents to collect the debt.
9. An enforcement agent visited number 58. But he noted her car was parked outside number 50. So, he clamped it.
10. Mrs X says her neighbour called her and told her about the enforcement agents visit. She says she contacted the agent and asked for more time to sort the matter out. But says the agent refused to allow extra time and she had to pay the debt which caused difficulties as she was away at the time.

Assessment

11. The Council must send all correspondence to the address provided by the DVLA. I have seen the information provided by the DVLA which says Mrs X lives at number 58. Mrs X has provided a copy of her registration document which shows her address as number 50.
12. As advised by the Council, Mrs X may put in a late statutory declaration to the Traffic Enforcement Centre on the ground that she did not receive the Notice to Owner or any statutory notices about the PCN. If the Traffic Enforcement Centre accepts her statutory declaration, the Order for Recovery, Charge Certificate and Notice to Owner would be cancelled. We would also expect the Council to reimburse the enforcement fees Mrs X paid. So, this would provide a remedy for her complaints that the notices were not served correctly and the enforcement agent was wrong to enforce the warrant.
13. It would be for the Council to decide whether to re-issue the Notice to Owner. If the Council did re-issue the Notice to Owner, Mrs X's right of appeal to dispute the PCN would be restored.
14. I find it is reasonable for Mrs X to use his right of appeal to the Traffic Enforcement Centre. I note the Council does not accept fault and says it used the address provided by the DVLA. The Traffic Enforcement Centre is in the best position to decide if the Council served the relevant statutory notices correctly.

Final decision

15. I have decided not to investigate Mrs X's complaint. This is because she may make a late declaration to the Traffic Enforcement Centre. And I consider it reasonable for her to do so.

Investigator's decision on behalf of the Ombudsman