

The Ombudsman's final decision

Summary: Mr X complained about the council's failure to take action over damage to the footway and verge near his home caused by a neighbour's vehicles. The Ombudsman should not investigate this complaint. This is because there is insufficient evidence of fault which would warrant an investigation.

The complaint

1. The complainant, whom I shall call Mr X, complains that the Council has not responded to his reports of damage to the footway and grass verge on his street. He wants the neighbours who caused the damage to pay for re-instatement of the damage. He wants the Council to enforce parking regulations against owners of vehicles mounting the footway and verge.

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.

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

How I considered this complaint

3. I have considered all the information which Mr X submitted with his complaint and he has commented on the draft decision.

What I found

4. Mr X complained to the Council about damage to the footway and verge caused by vehicles accessing a neighbouring development. He sent pictures of the damage and vehicles on the site. He wanted the Council to issue penalties to drivers on the footway and to charge the culprits for the damage which will have to be repaired using public funds.

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5. The Council says it cannot patrol all areas of highway with limited numbers of officers. They have discretion to issue penalties or ask vehicle drivers to move on. It does not believe Mr X's evidence is sufficient for it to secure a case for criminal damage to the highway in the courts.
 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. The Council is the highway authority and it must decide whether it can pursue legal action against vehicle owners.

Final decision

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

Investigator's decision on behalf of the Ombudsman