

15 May 2018

Complaint reference:
18 000 448

Complaint against:
London Borough of Havering

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Mr X's complaint about a penalty charge notice as he had a right of appeal to London Tribunals which it would have been reasonable for him to use.

The complaint

1. The complainant, whom I shall refer to as Mr X, complains about a penalty charge notice (PCN) issued by the Council.

The Ombudsman's role and powers

2. 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*)
3. 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

4. I reviewed the details of Mr X's complaint, shared my draft decision with him and invited his comments.

What I found

5. The Council issued Mr X a PCN for a moving traffic contravention in January 2018.
6. There is a set procedure councils must follow when pursuing PCNs for moving traffic contraventions. When a council identifies a contravention it will issue a PCN to the owner/registered keeper by post. This will detail the amount of the fine and the motorist's right of appeal, firstly to the council itself and then to a Tribunal.
7. The motorist has 28 days from the date of the notice to pay the penalty charge or make representations against it. For the first 14 days after the PCN the motorist may pay at a discounted rate of 50% of the full fine.
8. Mr X says the Council has set a trap for motorists in the knowledge that most will simply pay the fine at the discounted rate and not bother to appeal. He believes this is unfair.

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9. The Ombudsman will not investigate this complaint. Mr X's injustice lies in the PCN issued to him and if he considered it was unfair and that the restriction was not properly signed it would have been reasonable for him to appeal, first to the Council and then to London Tribunals. The process is easy to follow and set out in law. Mr X suggests he paid the PCN issued to him as he did not wish to risk it increasing but there is no provision to pay a PCN and appeal. The Council offered a discount of 50% for the first 14 days as it must and I have seen no suggestion of fault in the way it handled this matter. If Mr X disputed the basis for the PCN it was for him to put the matter to London Tribunals.

Final decision

10. The Ombudsman will not investigate this complaint. This is because Mr X had a right of appeal against the PCN which it would have been reasonable for him to use.

Investigator's decision on behalf of the Ombudsman