

Complaint reference:
17 012 318

Complaint against:
Wyre Forest District Council

The Ombudsman's final decision

Summary: The Ombudsman will not investigate whether an injury suffered by the complainant was caused by the Council's negligence. This is a matter for the courts to decide.

The complaint

1. The complainant, who I refer to here as Mr B, says the Council should pay him for compensation for an injury he suffered when he tripped on a pathway.

The Ombudsman's role and powers

2. 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*)

How I considered this complaint

3. I have considered what Mr B said in his complaint.

What I found

4. Mr B's complaint is in effect that the Council has been negligent. Adjudication on questions of negligence usually involves making decisions on contested questions of fact and law which need the more rigorous and structured procedures of civil litigation for their proper determination. In addition, only a court can decide if a council has been negligent and what damages must be paid.
5. We cannot decide whether a council has been negligent and has no powers to enforce an award of damages. For this reason, we would usually expect someone in Mr B's position to seek a remedy in the courts, directly or through his insurers.

Final decision

6. I consider there is no exceptional reason Mr B could not seek a remedy in court and so we will not investigate this complaint.

Investigator's decision on behalf of the Ombudsman