

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Ms B's complaint that changes to a Council owned car park have made it difficult to access her parking space. The Ombudsman cannot achieve the outcome Ms B seeks which is for the Council to move a boundary fence it has installed.

The complaint

1. The complainant, whom I shall call Ms B, complains the Council has erected a low fence around a car park opposite her parking space. Ms B says the Council owned land was not previously fenced and the changes have made it difficult for visitors and emergency vehicles to access her space. Ms B wants the Council to move the fence back one metre to provide more room for drivers to manoeuvre their vehicles.

The Ombudsman's role and powers

2. 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. (*Local Government Act 1974, section 34(3), as amended*)
3. 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 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, or
 - there is another body better placed to consider this complaint (*Local Government Act 1974, section 24A(6), as amended*)

How I considered this complaint

4. I have considered the information Ms B provided when she made her complaint. I sent a draft decision to Ms B and invited comments before I made my final decision.

What I found

5. While Ms B considers the changes the Council has made have restricted her access, the Ombudsman will not investigate this complaint.
6. The Council's response to Ms B's complaint says the fence is on Council land and while it is a more defined boundary than was previously there, it is in the correct place.
7. If Ms B considers the Council has encroached on to and restricted an existing right of access, or has strayed over the boundary line, these are civil matters and she would need to take legal advice to see if she has any remedy in the courts. The Ombudsman cannot say where the boundary lies and cannot achieve the outcome Ms B wants of asking the Council to move the position of the fence.

Final decision

8. The Ombudsman will not investigate this complaint. This is because the Ombudsman cannot achieve the outcome Ms B seeks.

Investigator's final decision on behalf of the Ombudsman