

Complaint reference:
14 000 944

Complaint against:
Wyre Forest District Council

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Miss A's complaint about how it has responded to her complaints and requests for information as it is unlikely she would find fault on the Council's part.

The complaint

1. The complainant, who I will refer to as Miss A, complains that the Council has failed to properly respond to her complaints about traffic enforcement and empty shop grants, and is at fault in regarding her complaints as vexatious.

The Ombudsman's role and powers

2. The Ombudsman investigates complaints about 'maladministration' and 'service failure'. In this statement, I have used the word fault to refer to these. She provides a free service, but must use public money carefully. She may decide not to start or continue with an investigation if she believes it is unlikely she would find fault. (*Local Government Act 1974, section 24A(6)*)
3. The law says the Ombudsman cannot normally investigate a complaint when someone can appeal to a tribunal. However, she may decide to investigate if she considers it would be unreasonable to expect the person to appeal. (*Local Government Act 1974, section 26(6)(a)*)
4. The Traffic Penalty Tribunal considers parking and moving traffic offence appeals for all areas of England outside London.
5. The Office of the Information Commissioner considers complaints about freedom of information. It acts as a tribunal in these cases.

How I considered this complaint

6. I have considered the complaint form submitted by Miss A and copies of correspondence provided by the Council.

What I found

7. In January 2014 Miss A made a complaint about traffic and parking enforcement. She stated that she had been issued with two Penalty Charge Notices (PCNs), when she had been doing essential loading in connection with her new business. She complained that the methods used by Council staff and contractors amounted to bullying. The Council responded, denying that it had been at fault.
8. The evidence indicates that Miss A subsequently made a number of reports of what she regarded as traffic and parking contraventions. The Council informed

her that it could not act on these reports and asked her to stop making them. The Council states that she made over fifty contacts with its offices relating to parking and traffic.

9. Miss A further complains about the way in which Council has responded to her complaints about its administration of empty shop grants. When Miss A started her business, she rented a shop which had been occupied by the recipient of an empty shop grant from the Council. She complains that the grant was not spent as intended and the Council failed to have proper oversight of it. The Council responded to her complaint, giving her answers to the questions she asked, unless they related to matters which it regarded as confidential to third parties.
10. Miss A applied for an empty shop grant as her existing premises were unsuitable. The Council declined the application as the grants were intended to encourage businesses to move into the town, not for existing businesses to move within the town. Miss A contends that other businesses have been given grants in these circumstances. She made a Freedom of Information request on the subject. The Council has declined to give her the information she asked for and, given the nature and frequency of her contacts, has told her that it regards them as vexatious.
11. The Ombudsman will not investigate Miss A's complaint as it is unlikely she would find fault on the Council's part. The Council has explained to Miss A why it cannot act on her reports of traffic and parking violations and I can see no evidence of fault in the way in which it did so. The Ombudsman will not consider matters relating to the two PCNs issued to Miss A. If she believed they should not have been issued, she had the right to appeal to the Traffic Penalty Tribunal and it would have been reasonable for her to do so.
12. The Ombudsman will not investigate Miss A's complaint about the empty shop grant made to the previous tenants of her shop. This grant is a matter between the grant recipients and the Council and Miss A is not party to it. The decision to rent the shop was a matter for Miss A and it was for her to satisfy herself that it met her needs.
13. The Ombudsman will not investigate how the Council responded to Miss A's Freedom of Information request. The Council has correctly informed her that she may bring the matter to the attention of the Information Commissioner, who acts as a tribunal in such cases. That is the appropriate way in which to pursue the matter and the Ombudsman will not intervene.
14. It is for the Council to decide whether to treat a complainant as vexatious, taking into account matters such as the nature and frequency of contacts. In this case, it is unlikely that the Ombudsman would find fault on the Council's part and there are therefore insufficient grounds for the Ombudsman to investigate the matter.

Final decision

15. The Ombudsman will not investigate Miss A's complaint.

Investigator's decision on behalf of the Ombudsman