

The Ombudsman's final decision

Summary: The Ombudsman will not investigate Mr X's complaint about the reintroduction of a public footpath. This is because the complaint is late. Also, we have no jurisdiction to consider decisions taken by the Planning Inspector, and there is not enough evidence of fault by the Council. It is also reasonable for Mr X to use the alternative remedy that is available to him.

The complaint

1. The complainant, whom I shall call Mr X, complains about the Council's decision to reintroduce a public footpath through his property.

The Ombudsman's role and powers

2. The Local Government Act 1974 sets out our powers but also imposes restrictions on what we can investigate.
3. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
4. 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*)
5. The law says we cannot normally investigate a complaint when someone can appeal to a government minister. 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)(b)*)
6. The Planning Inspector acts on behalf of the responsible Government minister.
7. 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
 - there is another body better placed to consider this complaint.

How I considered this complaint

8. I considered Mr X's complaint to the Ombudsman and the information he provided. I also gave Mr X the opportunity to comment on a draft statement before reaching a final decision on his complaint.

What I found

9. Mr X says that in 2005, the Council said there might be an unused footpath running through his property. Mr X submitted objections. He says that in 2015, the Planning Inspector decided there was a footpath through Mr X's property, and the likely route it followed. Mr X says he was not consulted about this decision.
10. The Council now wants to reinstate the footpath. Mr X says further research is needed to "either support or contradict the conclusions reached by the Planning Inspectorate as to the exact location of the footpath." Mr X is concerned the proposed location of the footpath will have an impact on the business he operates from his property. The Council has said it has no reason to doubt the Planning Inspector's decision, and the time for challenging the decision has now expired. It has explained there is the option for Mr X to make an application under the Wildlife and Countryside Act to delete the right of way.
11. The Ombudsman normally expects people to complain to us within twelve months of them becoming aware of a problem. We look at each complaint individually and on its merits, considering the circumstances of each case. But we do not exercise discretion to accept a late complaint unless there are clear and compelling reasons to do so. I do not consider that to be the case here. The matter Mr X complains about dates to 2005, and I see no reason why he could not have complained about the Council's actions much earlier. The exception at paragraph 3 applies to Mr X's complaint.
12. But even if Mr X's complaint was not late, it would not be a matter for the Ombudsman. At the heart of the complaint is a decision taken by the Planning Inspector. We have no jurisdiction to consider such decisions - which can be challenged in court. If Mr X disagreed with the Inspector's decision - he should have used this right.
13. There is also not enough evidence of fault by the Council to warrant an investigation by the Ombudsman. The Council is implementing the Planning Inspector's decision. While I know Mr X disagrees with what the Council is doing, that is not evidence of fault.
14. The Ombudsman has no powers to overturn the Planning Inspector's decision or say where a right of way does or does not exist. The Council has explained to Mr X there is an option to apply for modifications to the Definitive Map, including the deletion of a right of way. Only this option can give Mr X the outcome he wants. If Mr X takes this option, and is unhappy with the Council's decision, he can appeal to the Planning Inspector. An investigation by the Ombudsman is not therefore appropriate.

Final decision

15. The Ombudsman will not investigate Mr X's complaint. This is because the complaint is late, and we have no jurisdiction to consider decisions taken by the

Planning Inspector. Also, there is not enough evidence of fault by the Council, and it is reasonable for Mr X to use the alternative remedy available to him.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Mr W said the Council was at fault for failing to allocate a place at a primary school to his eldest child, which had implications to where his other children were educated and the secondary schools they would move to afterwards. There is evidence of fault, leading to injustice, which the Council has already remedied.

The complaint

1. The complainant, whom I shall call Mr W, says the Council acted with fault by failing to give his child, B, a place at the closest school – School 1. Instead B was allocated a place at School 2. When Mr W's second child, C, was going to school, Mr W had to appeal to get a place at School 2 as the family was out of catchment even though B was already attending.
2. The Council later agreed it had been at fault in failing to allocate B a place at School 1. To remedy the fault, it agreed to give B and C a place at School 1.
3. Mr W did not want to move B and C. He thought they were making good progress in School 2. He wanted the Council to guarantee his third child, D, got a place at School 2 without the need for an appeal. He also wanted all three children to get a place at School 2's linked secondary school, for which they were out of catchment. Alternatively, he thought the Council should pay for him and his family to move to that secondary school's catchment area so B, C and D could attend with their friends. He asked the Ombudsman to consider how the Council should remedy the fault.

The Ombudsman's role and powers

4. 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*)
5. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

6. I considered the information Mr W provided with his complaint. I spoke to him on the telephone. I sent Mr W and the Council a copy of my draft decision and took comments into account before issuing a decision.

What I found

7. Mr W applied for a place at School 1, for the 2016/17 academic year, for his eldest child, B. The Council offered B a place, instead, at School 2, which was some distance from the family's home address.
8. At that point, Mr W had a right of appeal for School 1 but he did not use it. He told me he was not aware the Council had been at fault in the way it allocated places at School 1. Parents who are appealing are not necessarily aware of whether a council has acted with fault. As Mr W thought B should have had a place at School 1, on the grounds it was close to his home address, he could have presented the facts to an independent appeal panel for it to consider whether the Council was at fault. Mr W also said he was not legally represented at the time but there is no need for legal representation at admission appeals panels.
9. When his second child, C, was starting school in 2018/19, Mr W was offered a place at a different school. Mr W had to appeal to have a place at School 2.
10. The Council subsequently admitted fault in the way it allocated places at School 1 for the 2016/17 academic year.
11. To remedy the fault, the Council offered a place at School 1 to B and C. This would put Mr W back in the position he would have been but for the fault, which is what the Ombudsman considers when looking at remedies. Mr W not wanting to move B and C is a choice that he is entitled to make. Often parents have no choice but to move their children to different schools (army personnel or crown servants, for example), no matter what they and their children's preferences might be. This is not the case here.
12. From what Mr W says, it would be unlikely B, C and D would get into the secondary school that students of School 2 would normally go to, because they do not live in its catchment area. If they moved to School 1, they might get places at its associated secondary school. Both secondary schools are, or will be, academies and academies can set their own admissions criteria. The Council could not guarantee entry to either because they are not Council schools. It would not be an appropriate use of public money, and possibly even illegal, for the Council to pay to move Mr W and his family into the catchment area for the linked secondary school for School 2. Mr W can choose to move there if he wishes.
13. Similarly, the Council could not guarantee his youngest child, D, would get a place at School 2 because the family is not in catchment and admissions criteria might also change over that time. If a child does not get a place then a parent can take this to an independent appeals panel, which is appropriate. Mr W did this when C was not allocated a place at School 2. D would be likely to get a place at School 1 as it would be close to the home address.

Final decision

14. Fault leading to injustice. The Council has already provided a remedy and no further action is necessary.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: there are no grounds for the Ombudsman to investigate Mr B's complaint about his arrest and detention under the Mental Health Act or the abuse he alleges he suffered while he was detained. Mr B could have challenged his detention by appealing to a Tribunal, and his treatment is a matter for the NHS, not the Council.

The complaint

1. Mr B complains he was wrongly arrested by Nottinghamshire Police in April 2018 and detained under the Mental Health Act. He says he was transported 200 miles away and suffered abuse while he was detained. Mr B says this is not the first time this has happened. He was also detained in the summer of 2016. He believes his arrest and detention were arranged by the Council to frustrate his attempts to uncover sexual abuse of children. Mr B describes himself as a 'paedophile hunter'.

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'.
3. We investigate complaints about councils and certain other bodies. We cannot investigate the actions of bodies such as the Police or the NHS. (*Local Government Act 1974, sections 25 and 34A, as amended*)
4. We may decide not to start or continue with an investigation if we believe it is unlikely further investigation will lead to a different outcome. (*Local Government Act 1974, section 24A(6), as amended*)
5. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)

How I considered this complaint

6. I have considered:
 - information provided by Mr B; and
 - the Council's response to Mr B's recent complaints.

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7. I invited Mr B and the Council to comment on my draft decision.

What I found

‘Detention’ under the Mental Health Act 1983

8. The Mental Health Act 1983 sets out when a person can be admitted, detained and treated in hospital against their wishes. The Act covers what rights a person has, how they can leave hospital and what aftercare they can expect.
9. An *Approved Mental Health Professional* is a person appointed by a council who has the power to make an application to admit a person to hospital under the Act or to assess their need to be detained in hospital for further treatment. An application must be supported by the written recommendations of two registered medical practitioners. The decision to admit a person is taken by the hospital.
10. A person can be admitted (‘detained’) as a patient in a psychiatric hospital (‘sectioned’) under Section 3 for a maximum of 6 months for treatment.
11. They have a right of appeal to the First-tier Tribunal (Mental Health) to challenge their admission.

Mr B’s complaint

12. The Ombudsman cannot investigate Mr B’s complaint about his arrest by the Police in April 2018. The Ombudsman has no powers to consider complaints about the Police.
13. It is not clear from Mr B’s complaint whether a Council-appointed Approved Mental Health Professional was involved in his hospital admission in April 2018. I do not intend to investigate the complaint, however, since Mr B could have challenged his admission by appealing to the First-Tier Tribunal.
14. Mr B alleges he was abused while he was detained. This is a complaint against the hospital where he was detained, not the Council. The Ombudsman has no powers to consider complaints about the NHS.
15. Mr B says this was not the first time he has been admitted to a psychiatric hospital and suffered abuse during his stay. I will not consider his complaints about his earlier admissions because they are too old. Mr B could have complained sooner.

Final decision

16. I have discontinued my investigation for the reasons set out above.

Investigator’s decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Miss X complains the Council wrongly started child protection action and it took account of false information as part of that process. The Council took action appropriately and in response to a referral from the probation service. The Council followed the correct procedures when deciding Miss X's son was at risk of harm. There is nothing to show the decision was based on false information.

The complaint

1. Miss X complains the Council wrongly started child protection action and it has taken account of false information as part of that process.
2. Miss X says the requirement to engage with social care has put her to avoidable time and trouble.

The Ombudsman's role and powers

3. 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'. If there has been fault which has caused an injustice, we may suggest a remedy. (*Local Government Act 1974, sections 26(1) and 26A(1), as amended*)
4. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

5. As part of the investigation, I have:
 - considered the complaint and the documents provided by the complainant;
 - made enquiries of the Council and considered the comments and documents the Council provided;
 - discussed the issues with the complainant;
 - sent my draft decision to both the Council and the complainant and invited their comments.

What I found

6. Miss X lives with her teenage son. On 13 December 2017, a probation officer contacted the Council's social care department regarding Miss X's partner, Mr Y, who would shortly be released from prison. The probation officer made a referral as Mr Y had indicated his wish to live with Miss X. The probation officer thought Mr Y posed a risk to Miss X and her son.
7. Mr Y had another child in a different area who was subject to a Child Protection Plan (CPC). The probation officer reported a history of child protection and domestic abuse issues in relation to Mr Y.
8. A social worker completed an assessment with the outcome there should be an Initial Child Protection Conference (ICPC). The Council held a strategy meeting and completed a Section 47 enquiry.
9. Mr Y was then convicted of further offences while in prison. He received a further custodial sentence of six months. The Council then put the ICPC on hold as the risk had changed. The Council decided a Child in Need (CIN) Plan was then the appropriate action.
10. A CIN planning meeting took place on 22 February. A CIN Plan was produced with the aim of protecting Miss X's son from witnessing or being caught up in domestic abuse. The plan included a referral for Miss X to a domestic abuse agency and a risk assessment of Mr Y to be completed before his release from prison.
11. In March the CIN Plan was updated but the aim remained the same. The plan said Mr Y should reside outside the family home until the risk assessment was completed. It also said safety planning should be completed with Miss X and her son.
12. A CPC was produced in June. The overall aim of the plan was stop Miss X's son being exposed to domestic abuse. The plan stated a social worker should visit Miss X and her son every two weeks but this should be increased and include unannounced visits once Mr Y is released from prison. Miss X would continue to work with a domestic abuse agency and a referral made for Miss X's son to a children's advocacy service.
13. Miss X was given a copy of the plan before the case conference took place. She did not agree with the plan as she did not consider her son was in any danger. She said the probation service had lied and falsified documents and that Mr Y was taking legal action.
14. The ICPC took place on 20 June. Miss X attended with her son and his grandfather. The conference reported that Mr Y's condition release dated was 6 August. A risk assessment on Mr Y had been completed but Miss X did not have a copy of it. Mr Y was classed as a medium risk to the public and known adults and children. It was up to Mr Y to share his risk assessment with Miss X.
15. Miss X told the case conference she had no plans for Mr Y to live with her on his release. The probation officer said the approved address for Mr Y was at his mother's house. Miss X told the conference she had no problems with Mr Y, that she had known him for 10 years and been together for two years.
16. There was a confidential section of the case conference which Miss X and other family members could not be present at. Afterwards the Chair advised there was a history of incidents of extreme violence and police call outs. He said there had been a Finding of Fact court hearing when the judge determined Mr Y had been

the perpetrator of a significant domestic abuse incident. The minutes indicate a concern that Miss X did not see the risk posed by Mr Y.

17. The ICPC concluded Miss X's son was at risk of significant harm and would become subject to a Child Protection Plan due to the risk of him being exposed to physical and emotional harm or danger presented by Mr Y.
18. On his release from prison, Mr Y was subject to licence conditions which prevented him from going to Miss X's home. Miss X told me her relationship status with Mr Y was unclear but she was happy living with her son.

Analysis

19. Miss X says the Council was wrong to start child protection action. She said Mr Y was released from prison for a period of about six weeks when there were no incidents. He was then recalled to prison. She says the six weeks show there was no risk and the child protection plan was unnecessary.
20. The information provided shows the Council took action in respect of Miss X's son following a referral from Mr Y's probation officer. The Council had a duty to act on this information and to take a view on whether Miss X's son was at risk due to her relationship with Mr Y.
21. There is no suggestion anywhere in the information I have seen to suggest Miss X neglects or abuses her son. The risk to him is entirely related to Mr Y and his history of violence.
22. The information provided shows Miss X did not agree with the social workers' assessments that Mr Y was a risk. Miss X believed the information given to her by Mr Y. The social workers and other professionals involved in the case had concerns that Mr Y manipulated Miss X and provided her with incorrect information about the situation.
23. I am satisfied the Council acted correctly and followed the correct procedures in respect of the protecting Miss X's son. The Council stood down the ICPC when Mr Y remained in prison and treated this as a CIN case. That is an entirely appropriate action. The Council reinstated the ICPC when Mr Y's release date moved closer. Miss X, her son and his grandfather attended the ICPC and were able to give their views which were considered. The decision of the ICPC was that Miss X's son was a risk of harm. As there was no fault in the process leading to that decision, I cannot criticise it.
24. Miss X says the Council took account of incorrect information. The minutes of the ICPC show evidence was presented of Mr Y's previous violent and abusive behaviour. This includes a Finding of Fact court decision that Mr Y was the perpetrator of a serious domestic abuse incident. This is clear evidence of his violence and does not support Miss X's claim that the decisions regarding her son were based on false evidence.

Final decision

25. I will now complete my investigation as there is no evidence of fault in the Council's decision to start Child Protection action or that it used false information.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: Mr X complained the Council incorrectly measured the distance from his home address to his son's nearest qualifying school. The Council is not at fault.

The complaint

1. Mr X complained the Council incorrectly measured the distance to his son's, Y's, nearest qualifying school. Mr X says this is causing him an injustice as the Council will not provide free home to school transport for Y.

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. If we are satisfied with a council's actions or proposed actions, we can complete our investigation and issue a decision statement. (*Local Government Act 1974, section 30(1B) and 34H(i), as amended*)

How I considered this complaint

4. I discussed the complaint with Mr X.
5. I considered the Council's response to my enquiries.
6. I referred to the Department for Education statutory guidance '*Home to school travel and transport guidance*', the Education Act 1996, and the Council's '*Under-16 home to school transport policy*'.
7. Mr X and the Council both had the opportunity to comment on my draft decision.

What I found

The law

8. Councils have a duty to provide free home to school transport for *eligible children to qualifying schools*.
9. *Eligible children* are children of compulsory school age who:
 - cannot walk to school because of their special educational needs, disability or a mobility problem; or

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- live beyond the statutory walking distance; or
 - receive free school meals, or whose parents receive the maximum Working Tax Credit.
10. The *statutory walking distance* is two miles for a child aged under eight and three miles for a child aged eight and over. It is measured by the shortest route along which a child, accompanied as necessary, may walk with reasonable safety.
 11. The *nearest qualifying school* is the nearest school with places available that provides education suitable to the age, ability and aptitude of the child, and any special educational needs the child may have.
 12. The Council's policy states that to determine which school is closest to the home address it measures the shortest road route from the centre of the road directly outside the home address, to the school's nearest pedestrian entrance. It does not specify what mapping tool is used to complete this.
 13. The Government has set out a recommended two stage review and appeals process for parents who wish to challenge a decision about their child's eligibility for travel support:
 - Stage one: Review by a senior officer.
 - Stage two: Review by an independent appeal panel.
 14. Appeal panel members must be independent of the original decision-making process but do not have to be independent of the council.
 15. The Education Act gives council's discretionary powers to go beyond their statutory duties and provide transport for any child. This can be awarded in any circumstances the Council feels appropriate.

What happened

16. Mr X applied for free home to school transport for Y as they live more than three miles from the school.
17. The Council responded saying Y was not eligible as he was not attending his nearest qualifying school.
18. Mr X requested a review, arguing Y was attending the school closest to his home address.
19. The Council's stage one response upheld the original decision. It stated Y's nearest qualifying school was school A. This was 7.57 miles from the home address. Y attended school B. This was his preferred school. This was 7.68 miles from his home address.
20. Mr X responded to the Council and sent it measurements from AA Maps showing:
 - school A was 7.8 miles from his home address; and
 - school B was 7.7 miles from his home address.
21. Mr X explained he had measured from outside his home to the main gates of both schools. He asked the Council to explain how it had reached its measurements.
22. The Council escalated Mr X's transport request to the second stage of the review process, where it was considered by its transport review panel. The panel was made up of four senior officers. This included the Manager for Transport and Travel Service, and the Transport Solutions Manager.

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23. The Council told the panel that although the distance between the schools was very similar, a trundle wheel measurement was completed in 2014 and school A was 0.1 miles closer than school B. The panel did not uphold Mr X's appeal.
 24. The notes from the appeal panel meeting do not show how it discussed Mr X's measurements, in relation to the Council's measurements.
 25. Following the appeal, a letter was sent to Mr X explaining the reason why the Council was not providing free home to school transport. Mr X remained unhappy with the Council's measurements and complained to the Ombudsman.
 26. In response to my enquiries, the Council completed a new trundle wheel measurement. It measured from the common point of a roundabout, which must be driven around to get to either school. It measured to the nearest pedestrian entrance as specified in its policy.
 27. The Council also measured to a new pedestrian entrance at school B, identified by Mr X, as being closer. The Council's measurements were:
 - School A's nearest pedestrian entrance is 874.6metres from the common point.
 - School B's nearest pedestrian entrance is 955.5metres from the common point.
 28. The Council advised the officers on the panel were not involved in the original decision making and had no line management responsibility of officers completing the eligibility assessment.

My findings

29. Mr X complained the Council's measurement to his preferred school was incorrect. The Council has provided measurements and pictures to show how it measured the distance between the two schools. The Council is not at fault.
30. Although the minutes of the appeal panel do not show how it considered the distances to both schools, provided by Mr X, I fall short of finding this fault. This is because the minutes are clear the appeal panel refused travel assistance based on the Council's trundle wheel measurements.
31. The Council confirmed the officers on the appeal panel had no role in the decision-making process. However, it should be aware the use of the Manager for Transport and Travel Service and the Transport Solutions Manager raises some questions of the appearance of independence which the Council may like to consider.

Final decision

32. There was no fault in the Council's actions therefore I have completed my investigation.

Investigator's decision on behalf of the Ombudsman

The Ombudsman's final decision

Summary: The Ombudsman cannot investigate part of Mr and Mrs X's complaint about children services because it involves legal proceedings. We should not investigate the rest because there are other bodies better placed and we cannot achieve a meaningful remedy.

The complaint

1. The complainants, whom I shall call Mr and Mrs X, say the Council's children services team produced an inaccurate and flawed assessment.

The Ombudsman's role and powers

2. We cannot investigate late complaints unless we decide there are good reasons. Late complaints are when someone takes more than 12 months to complain to us about something a council has done. (*Local Government Act 1974, sections 26B and 34D, as amended*)
3. We cannot investigate a complaint about the start of court action or what happened in court. (*Local Government Act 1974, Schedule 5/5A, paragraph 1/3, as amended*)
4. We have the power to start or discontinue an investigation into a complaint within our jurisdiction. We may decide not to start or continue with an investigation if we think the issues could reasonably be, or have been, raised within a court of law. (*Local Government Act 1974, sections 24A(6) and 34B(8), as amended*)
5. 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 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

6. I considered the information Mr and Mrs X provided with their complaint which included the Council's replies to them. Mr and Mrs X had an opportunity to comment on a draft version of this decision.

What I found

7. Mr and Mrs X say they cared for their grandchild, D, for 11 years. A Court made an order for them to be D's main carers. In June 2016, they say D decided they wanted to live with their parent, Z. The Council started an assessment process.
8. Z applied to Court for it to decide D's care arrangements. The Court ordered the Council to provide it with a report on D's circumstances. This is a section seven report. The Council says it used the assessment started in the summer of 2016 to produce the section seven Court report.
9. Mr and Mrs X decided not to contest the Court proceedings as they say D was clear they wanted to live with Z. The proceedings ended at the end of 2016.
10. In December 2017, Mr and Mrs X say there was a domestic incident at Z's home. They say D had stopped attending school and their behaviour had worsened. By February 2018 Z and D had left the country and moved to another country where they both held citizenship. Z is now 15 years old.
11. Mr and Mrs X say:
 - the Council's summer of 2016 assessment is flawed and inaccurate.
 - the Council's section seven report was also flawed and meant they had no chance of claiming D would be better living with them than Z.
 - D's behaviour worsening and decline in school hours was due to the Council agreeing D could live with Z.
 - The social worker allocated to D's case acted unprofessionally throughout.

Analysis

12. We cannot investigate the Council's section seven report. A Court ordered that report and it forms part of legal proceedings.
13. We cannot investigate the accuracy of the summer 2016 assessment. The Council used it to create the section seven report.
14. D now lives abroad. We could not achieve any outcome which affects this or changes the contact Mr and Mrs X have with D.
15. Parliament set up the Health and Care Professions Council to investigate complaints of social worker professionalism. They are better suited to do so.
16. The Council replied to Mr and Mrs X's complaint about assessment errors. It says it changed the assessment. It decided not to recirculate the report to all those who saw it. Parliament set up the Information Commissioner's Office (ICO) to consider complaints of inaccurate documents including whom they are provided to. Given this case involves child protection, and the Council has already refused to circulate the changes, the ICO is better placed to consider this part of Mr and Mrs X's complaint.

Final decision

17. The Ombudsman will not and cannot investigate this complaint. This is because it is partly about legal proceedings, partly about matters better suited to other bodies and because we cannot achieve a meaningful remedy on the rest.

Investigator's decision on behalf of the Ombudsman

12 March 2019

BY EMAIL ONLY

Our ref: 18 015 668

(Please quote our reference when contacting us and, if using email, please put the number in the email subject line)

Contact Chris Upjohn on 0330 403 4676 or by email to c.upjohn@coinweb.lgo.org.uk

Dear Mr

Complaint against Nottinghamshire County Council

As you know, the Ombudsman has asked me to consider whether we should investigate a complaint about the County Council. Having considered all the papers, I have decided there are no substantive actions which we have not already considered. For this reason, I will take no further action on this complaint other than to send a copy of this letter to the County Council.

I will write to you separately regarding your other recent complaint to the Ombudsman.

Yours sincerely



Chris Upjohn
Investigator, Assessment Team

The Ombudsman's final decision

Summary: Ms B complains about the Council's failure to erect clear traffic signs in her area which resulted in her receiving a Penalty Charge Notice (PCN). The Ombudsman cannot investigate the complaint because Ms B appealed against the PCN to the Traffic Penalty Tribunal so placing the complaint outside our jurisdiction.

The complaint

1. Ms B complains about the Council's failure to erect clear traffic signs in her area which resulted in her receiving a PCN. She says she drove in a bus lane because the Council's signage about the restrictions were unclear and confusing and she had not realised she had been committing an offence.

The Ombudsman's role and powers

2. We cannot investigate a complaint if someone has appealed to a tribunal. (*Local Government Act 1974, section 26(6)(a), as amended*)
3. The Traffic Penalty Tribunal considers parking and moving traffic offence appeals for all areas of England outside London.

How I considered this complaint

4. I spoke to Ms B and reviewed the information she provided. I gave Ms B the opportunity to comment on my draft decision and considered the comments she made over the telephone.

What I found

5. In 2017 Ms B received a PCN from the Council because she drove her car in a bus lane.
6. Ms B says she had just passed her driving test, had followed her navigation device and that the signage indicating there was a bus lane and its times of operation had been unclear.
7. Ms B appealed to the Traffic Penalty Tribunal against the issuing of the PCN but her appeal was unsuccessful and the Council has pursued her for the outstanding debt associated with the Notice.

Assessment

8. Ms B says her complaint is not about the PCN but about whether the traffic signs the Council has erected are correct and match those they are required to put up. However, not only is it not the role of the Ombudsman to carry out such a check but any injustice Ms B might realistically claim would relate to the PCN issued to her.
9. Parliament has set certain restrictions on the Ombudsman's powers to investigate complaints and the restriction highlighted at paragraph 2 applies to Ms B's complaint because, by law, we cannot investigate a complaint when the complainant has appealed to the Tribunal. We have no discretion here.

Final decision

10. The Ombudsman cannot investigate this complaint. This is because Ms B appealed against the PCN to the Traffic Penalty Tribunal so placing the complaint outside our jurisdiction.

Investigator's decision on behalf of the Ombudsman